SYNOPSIS
Reforms municipal responsibilities concerning provision of affordable housing; abolishes COAH; appropriates $16 million.

CURRENT VERSION OF TEXT
As reported by the Senate Budget and Appropriations Committee on March 11, 2024, with amendments.

(Sponsorship Updated As Of: 3/18/2024)
AN ACT concerning affordable housing, including administration and municipal obligations, amending, supplementing, and repealing various parts of the statutory law, and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1985, c.222 (C.52:27D-302) is amended to read as follows:
   2. The Legislature finds that:
      a. The New Jersey Supreme Court, through its rulings in [South] Southern Burlington County NAACP v. Mount Laurel, 67 N.J. 151 (1975) and [South] Southern Burlington County NAACP v. Mount Laurel, 92 N.J. 158 (1983), has determined that every municipality in a growth area has a constitutional obligation to provide through its land use regulations a realistic opportunity for a fair share of its region's present and prospective needs for housing for [low and moderate income] low- and moderate-income families.
      b. In the second Mount Laurel ruling, the Supreme Court stated that the determination of the methods for satisfying this constitutional obligation "is better left to the Legislature," that the court has "always preferred legislative to judicial action in their field," and that the judicial role in upholding the Mount Laurel doctrine "could decrease as a result of legislative and executive action."
      c. The interest of all citizens, including [low and moderate income] low- and moderate-income families in need of affordable housing, and the needs of the workforce, would be best served by a comprehensive planning and implementation response to this constitutional obligation.
      d. There are a number of essential ingredients to a comprehensive planning and implementation response, including the establishment of reasonable fair share housing guidelines and standards, the initial determination of fair share by officials at the municipal level and the preparation of a municipal housing element, State review of the local fair share study and housing element, and continuous State funding for [low and moderate income] low- and moderate-income housing to replace the federal housing subsidy programs which have been almost completely eliminated.
      e. The State can maximize the number of [low and moderate income] low- and moderate-income units provided in New Jersey by allowing its municipalities to adopt appropriate phasing schedules for meeting their fair share, so long as the municipalities permit a timely

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
1Assembly AAP committee amendments adopted February 8, 2024.
2Senate SBA committee amendments adopted March 11, 2024.
achievement of an appropriate fair share of the regional need for [low
and moderate income] low- and moderate-income housing as required
by the Mt. Laurel I and II opinions and other relevant court decisions.

f. The State can also maximize the number of [low and moderate
income] low- and moderate-income units by creating new affordable
housing and by rehabilitating existing, but substandard, housing in the
State. Because the Legislature has determined, pursuant to P.L.2008,
c.46 (C.52:27D-329.1 et al.), that it is no longer appropriate or in
harmony with the Mount Laurel doctrine to permit the transfer of the
fair share obligations among municipalities within a housing region, it
is necessary and appropriate to create a new program to create new
affordable housing and to foster the rehabilitation of existing, but
substandard, housing.

g. Since the urban areas are vitally important to the State,
construction, conversion and rehabilitation of housing in our urban
centers should be encouraged. However, the provision of housing in
urban areas must be balanced with the need to provide housing
throughout the State for the free mobility of citizens.

h. The Supreme Court of New Jersey in its Mount Laurel
decisions demands that municipal land use regulations affirmatively
afford a [reasonable] realistic opportunity for a variety and choice of
housing including low and moderate cost housing, to meet the needs of
people desiring to live there. While provision for the actual
construction of that housing by municipalities is not required, they are
couraged but not mandated to expend their own resources to help
provide [low and moderate income] low- and moderate-income
housing.

i. [Certain amendments to the enabling act of the Council on
Affordable Housing are necessary to provide guidance to the council
to ensure consistency with the legislative intent, while at the same time
clarifying the limitations of the council in its rulemaking. Although
the court has remarked in several decisions that the Legislature has
granted the council considerable deference in its rulemaking, the
Legislature retains its power and obligation to clarify and amend the
enabling act from which the council derives its rulemaking power,
from time to time, in order to better guide the council.] (Deleted by
amendment, P.L. , c. ) (pending before the Legislature as this bill)

j. The Legislature finds that the use of regional contribution
agreements, which permits municipalities to transfer a certain portion
of their fair share housing obligation outside of the municipal borders,
should no longer be utilized as a mechanism for the creation of
affordable housing [by the council].

k. The Legislature finds that the role of the Council on Affordable
Housing, as intended in the original enactment of the “Fair Housing
Act,” has not developed in practice as was intended in the legislation.

l. The council’s inability to function ultimately led the Supreme
Court in 2015 to order the temporary dissolution of the requirement
that administrative remedies be exhausted prior to resolving affordable housing disputes before the court, and allowed the courts to resume their role as the forum of first resort for evaluating municipal compliance with Mount Laurel obligations pursuant to guidelines laid out by the Supreme Court’s order.

m. The Legislature finds that the council’s inability to function led to a "gap period" that frustrated the intent of the Legislature and compliance with constitutional and statutory obligations, and that it is necessary to establish definitive deadlines for municipal action and any challenges to those actions to avoid such a "gap period" from being repeated in the future.

n. The Legislature finds that although the court-led system that has developed since 2015 has resulted in a significant number of settlement agreements and increased production of affordable housing, the system could operate more expeditiously to produce affordable housing, and at a lower cost to all parties, if appropriate standards are established by the Legislature to be applied throughout the State including more clarity on calculation on fair share affordable housing obligations using transparent and established data sources to eliminate the lengthy and costly processes of determining those obligations that have characterized both the Council on Affordable Housing and court-led system.

o. The Legislature determines that, considering the unique history of the "Fair Housing Act," the Council on Affordable Housing shall be abolished, and that, pursuant to the formulas and process established pursuant to sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill), a municipality shall be authorized to seek approval of its fair share affordable housing obligation, adopted pursuant to binding resolution and then filed with the court, with the guidance of calculations published by the Department of Community Affairs, but that advocates for the low- and moderate-income households of the State shall be provided with an opportunity to contest the municipal determination.

p. The Legislature declares that the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), as amended and supplemented by P.L. , c. (C. ) (pending before the Legislature as this bill), is intended to implement the Mount Laurel doctrine, and that municipalities in compliance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) are also in compliance with the Mount Laurel doctrine.

q. The Legislature finds that the population of persons aged 65 years and older in the State has grown from approximately 13 percent in 1990, to 17 percent in 2021, and that such growth, in conjunction with expected future growth, makes it appropriate for the Legislature to allow up to 30 percent of the units towards a municipality’s prospective affordable housing obligation to be satisfied through the creation of age-restricted housing.


The Legislature declares that the changes made to affordable housing methodologies, obligations, and fair share plans, as determined to be a necessity by the Legislature, through the enactment of P.L.1985, c. (C. ) (pending before the Legislature as this bill), are made with the intention of furthering consistency with the State Development and Redevelopment Plan.2

2. Section 4 of P.L.1985, c.222 (C.52:27D-304) is amended to read as follows:

4. As used in P.L.1985, c.222 (C.52:27D-301 et al.):
   a. "Council" means the Council on Affordable Housing established in P.L.1985, c.222 (C.52:27D-301 et al.), which shall have primary jurisdiction for the administration of housing obligations in accordance with sound regional planning considerations in this State abolished pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).
   b. "Housing region" means a geographic area of not less than two nor more than four contiguous, whole counties which exhibit significant social, economic and income similarities, and which constitute to the greatest extent practicable the primary metropolitan statistical areas as last defined by the United States Census Bureau prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.) established pursuant to subsection b. of section 6 of P.L. , c. (C. ) (pending before the Legislature as this bill).
   c. "Low income" "Low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 50 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.
   d. "Moderate income" "Moderate-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to more than 50% but less than 80 percent of the median gross household income for
households of the same size within the housing region in which the housing is located.

e. "Resolution of participation" means a resolution adopted by a municipality in which the municipality chooses to prepare a fair share plan and housing element in accordance with P.L.1985, c.222 (C.52:27D-301 et al.). (Deleted by amendment, P.L. , c. ) (pending before the Legislature as this bill)

f. "Inclusionary development" means a residential housing development in which a substantial percentage of the housing units are provided for a reasonable income range of low and moderate income low- and moderate-income households.

g. "Conversion" means the conversion of existing commercial, industrial, or residential structures for low- and moderate-income housing purposes where a substantial percentage of the housing units are provided for a reasonable income range of low and moderate income low- and moderate-income households.

h. "Development" means any development for which permission may be required pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).


j. "Prospective need" means a projection of housing needs based on development and growth which is reasonably likely to occur in a region or a municipality, as the case may be, as a result of actual determination of public and private entities. [In determining prospective need, consideration shall be given to approvals of development applications, real property transfers, and economic projections prepared by the State Planning Commission established by sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.).] Prospective need shall be determined by the methodology set forth pursuant to sections 6 and 7 of P.L. , c. ( and C. ) (pending before the Legislature as this bill) for the fourth round and all future rounds of housing obligations.

k. "Person with a disability" means a person with a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, aging, or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, the inability to speak or a speech impairment, or physical reliance on a service animal, wheelchair, or other remedial appliance or device.

l. "Adaptable" means constructed in compliance with the technical design standards of the barrier free subcode adopted by the Commissioner of Community Affairs pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and
in accordance with the provisions of section 5 of P.L.2005, c.350 (C.52:27D-123.15).

m. "Very [low income] low-income housing" means housing affordable according to federal Department of Housing and Urban Development or other recognized standards for home ownership and rental costs and occupied or reserved for occupancy by households with a gross household income equal to 30 percent or less of the median gross household income for households of the same size within the housing region in which the housing is located.

n. "Accessory dwelling unit" means a residential dwelling unit that provides complete independent living facilities with a private entrance for one or more persons, consisting of provisions for living, sleeping, eating, sanitation, and cooking, including a stove and refrigerator, and is located within a proposed or existing primary dwelling, within an existing or proposed structure that is accessory to a dwelling on the same lot, constructed in whole or part as an extension to a proposed or existing primary dwelling, or constructed as a separate detached structure on the same lot as the existing or proposed primary dwelling.

o. "Builder's remedy" means court imposed site-specific relief for a litigant who seeks to build affordable housing for which the court requires a municipality to utilize zoning techniques such as mandatory set-asides or density bonuses, including techniques which provide for the economic viability of a residential development by including housing that is not for low- and moderate-income households.

p. "Commissioner" means the Commissioner of Community Affairs.

q. "Compliance certification" means the certification obtained by a municipality pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), that protects the municipality from exclusionary zoning litigation during the current round of present and prospective need and through July 1 of the year the next round begins, which is also known as a "judgment of compliance" or "judgment of repose." The term "compliance certification" shall include a judgment of repose granted in an action filed pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313).

r. "County level housing judge" means a judge appointed pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill), to resolve disputes over the compliance of municipal fair share affordable housing obligations and municipal fair share plans and housing elements, with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.

s. "Deficient housing unit" means housing that: (1) is over fifty years old and overcrowded; (2) lacks complete plumbing; or (3) lacks complete kitchen facilities.

t. "Department" means the Department of Community Affairs.

u. "Exclusionary zoning litigation" means litigation to challenge the fair share plan, housing element, or ordinances or resolutions...
implementing the fair share plan or housing element of a municipality based on alleged noncompliance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine, which litigation shall include, but shall not be limited to, litigation seeking a builder’s remedy.

v. 1. "Fair share plan" means the plan or proposal that is in a form which may readily be adopted, with accompanying ordinances and resolutions, pursuant to subsection f. of section 3 of P.L.1985, c. (C.____) (pending before the Legislature as this bill), by which a municipality proposes to satisfy its obligation to create a realistic opportunity to meet its fair share of low- and moderate-income housing needs of its region and which details the affirmative measures the municipality proposes to undertake to achieve its fair share of low- and moderate-income housing, as provided in the municipal housing element, and addresses the development regulations necessary to implement the housing element, including, but not limited to, inclusionary requirements and development fees, and the elimination of unnecessary housing cost-generating features from the municipal land use ordinances and regulations.

1. "Highlands-conforming municipality" means a municipality that has adopted a land development ordinance implementing the municipality’s plan conformance petition and which land development ordinance has been certified by the Highlands Water Protection and Planning Council as consistent with the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et seq.), the Highlands regional master plan, and the municipality’s plan conformance approval. The term "land development ordinance" shall be inclusive of any amendment to the municipality’s land development ordinances that is adopted to further the municipality’s petition of plan conformance.

2. "Housing element" means that portion of a municipality’s master plan consisting of reports, statements, proposals, maps, diagrams, and text designed to meet the municipality’s fair share of its region’s present and prospective housing needs, particularly with regard to low- and moderate-income housing, and which shall contain the municipal present and prospective obligation for affordable housing, determined pursuant to subsection f. of section 3 of P.L.1985, c. (C.____) (pending before the Legislature as this bill).

1. "Program" means the Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L.1985, c. (C.____) (pending before the Legislature as this bill).

2. "State Development and Redevelopment Plan" or "State Plan" means the plan prepared pursuant to sections 1 through 12 of the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), designed to represent a balance of development and conservation objectives best suited to meet the needs of the State, and for the purpose of coordinating planning activities and establishing Statewide
planning objectives in the areas of land use, housing, economic
development, transportation, natural resource conservation, agriculture
and farmland retention, recreation, urban and suburban redevelopment,
historic preservation, public facilities and services, and
intergovernmental coordination pursuant to subsection f. of section 5

aa. "Transitional housing" means temporary housing that:
(1) includes, but is not limited to, single-room occupancy housing
or shared living and supportive living arrangements;
(2) provides access to on-site or off-site supportive services for
very low-income households who have recently been homeless or lack
stable housing;
(3) is licensed by the department; and
(4) allows households to remain for a minimum of six months.
(cf: P.L.2017, c.131, s.199)

3. (New section) a. The Council on Affordable Housing,
established by the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301
et al.), is abolished. Each municipality shall determine its municipal
present and prospective obligations in accordance with the formulas
established in sections 6 and 7 of P.L. , c. (C. and C. )
(pending before the Legislature as this bill) and may take into
consideration the calculations in the report published by the
department in accordance with this section.

b. Following the expiration of the third round of affordable
housing obligations on July 1, 2025, a municipality shall have
immunity from exclusionary zoning litigation if the municipality complies with the deadlines established in P.L. , c. (C. ) (pending before the Legislature as this bill) for both
determining present and prospective obligations, and for adopting a
housing element and fair share plan to meet those obligations.

I(1) Immunity from exclusionary zoning litigation shall not limit
the ability of an interested party to challenge a municipality for failure
to comply with the terms of its compliance certification. However, a
municipality’s actions to comply with the terms of its compliance
certification shall retain a presumption of validity if challenged for an
alleged failure described in this paragraph.

(2) Immunity from exclusionary zoning litigation shall not limit
the ability of an interested party to bring a challenge before the
program alleging that, despite the issuance of compliance certification,
a municipality’s fair share obligation, fair share plan, housing element,
or ordinances implementing the fair share plan or housing element are
in violation of the Mount Laurel doctrine. However, the decisions of
the program (and its actions) shall retain a presumption of validity
if challenged for an alleged violation described in this paragraph.

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3. Prior to the beginning of each new 10-year round of housing
obligations beginning with the fourth round on July 1, 2025, the
Department of Community Affairs shall conduct a calculation of regional need and municipal present and prospective obligations in accordance with the formulas established in sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill).

d. For the fourth round of affordable housing obligations, the department shall prepare and submit a report to the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature providing a report on the calculations of regional need and municipal obligations for each region of the State [on or before August] within the earlier of seven months following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) or December 1, 2024. To assist in this calculation, the Highlands Water Protection and Planning Council shall provide a list of Highlands-conforming municipalities to the department no less than five business days following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill). The department shall provide the report to each municipality in the State at the same time that it submits the report to the Governor and Legislature and shall also publish such report on the department’s Internet website. For the fifth round, and each subsequent new round of housing obligations, the department shall prepare and submit a report to each municipality in the State, the Governor, and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature on these calculations on or before August 1 of the year prior to the start of the new round and shall also publish such report on the department’s Internet website. For each 10-year round of housing obligations, a municipality may take into consideration the calculations in the report prepared by the department pursuant to this subsection in determining its present and prospective obligations.

e. Nothing in the provisions of subsections c., d., or f. of this section shall be interpreted to render any calculation in a report by the department published pursuant to this section binding on any municipality or other entity, nor to render any failure by the department to timely conduct the calculations or publish a report required by this section to alter the deadlines or process set forth in this section. The ultimate determination of a municipality’s present and prospective need shall be through the process as set forth below.

f. (1) (a) With consideration of the calculations contained in the relevant report published by the department pursuant to this section, for each 10-year round of affordable housing obligations beginning with the fourth round, a municipality shall determine its present and prospective fair share obligation for affordable housing in accordance with the formulas established in sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill) by resolution, which shall describe the basis for the municipality’s determination and bind the municipality to adopt a housing element and fair share plan pursuant to paragraph (2) of this subsection based on this...
determination as may be adjusted by the program as set forth in this
subsection.

(b) For the fourth round of affordable housing obligations, this
determination of present and prospective fair share obligation shall be
made by binding resolution no later than January 31, 2025. After
adoption of this binding resolution, the municipality shall file an action
regarding the resolution with the program no later than 48 hours
following adoption. The resolution, along with the date of filing with
the program, shall be published on the program’s publicly accessible
Internet website. The municipality shall also publish the resolution on
its publicly accessible Internet website, if the municipality maintains
one. If the municipality does not meet this deadline, it
\[\text{[immediately]}\] shall lose immunity from \[\text{[builder’s remedy]}\]
exclusionary zoning\[\text{litigation until such time as the municipality is}
determined to have come into compliance with the “Fair Housing
doctrine. A determination of the municipality’s present and
prospective obligation may be established before a county level
housing judge as part of any resulting declaratory judgment action
pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313), as amended
by P.L. , c. (C. ) (pending before the Legislature as this bill),
or through \[\text{[builder’s remedy]}\] exclusionary zoning\[\text{litigation. If the}
municipality meets this January 31 deadline, then the municipality’s
determination of its obligation shall be established by default \[\text{[immediately]}\], and
shall bear a presumption of validity \[\text{beginning on March 1, 2025, as}
the municipality’s obligation for the fourth round, unless challenged
by an interested party on or before February 28, 2025. \[\text{The}
municipality’s determination of its fair share obligation shall have a
presumption of validity, if established in accordance with sections 6
and 7 of P.L. , c. (C. and C. ) (pending before the
Legislature as this bill), in any challenge initiated through the
program.\[\text{An interested party may file a challenge with the program,}
after adoption of the binding resolution and prior to March 1, 2025,
alleging that the municipality’s determination of its present and
prospective obligation does not comply with the requirements of
sections 6 and 7 of P.L. , c. (C. and C. ) (pending before
the Legislature as this bill). For the fifth round, and each subsequent
new round of housing obligations, the deadlines established in this
subparagraph shall be on the last day of January, the last day of
February, and the first day of March, respectively, of the year of the
start of each new round.

(c) The Administrative Director of the Courts shall establish
procedures for the program to consider a challenge and resolve a
dispute initiated by an interested party pursuant to subparagraph (b) of
this paragraph. To resolve a challenge, the program shall apply an
objective assessment standard to determine whether or not the
municipality’s calculation of its obligation is compliant with the
requirements of sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill). Any challenge must state with particularity how the municipal calculation fails to comply with sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill) and include the challenger’s own calculation of the fair share obligations in compliance with sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill). The program shall establish procedures to summarily dismiss any objection or challenge that does not meet these minimum standards. For the purpose of efficiency, the program shall, in its own discretion, permit multiple challenges to the same municipal determination to be consolidated. The program’s approach to resolving a dispute may include: (i) a finding that the municipality’s determination of its present and prospective need obligation did not facially comply with the requirements of sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill) and thus the municipality’s immunity shall be revoked; (ii) an adjustment of the municipality’s determination of its present and prospective need obligation to comply with the requirements of sections 6 and 7 of P.L. , c. (C. and C. ) (pending before the Legislature as this bill) without revoking immunity; or (iii) a rejection of a challenge and affirm the municipality’s determination. The decision shall be provided to the municipality and all parties that have filed challenges no later than March 31 of the year when the current round is expiring and the new round is beginning and concurrently posted on the program’s Internet website. The Administrative Director of the Courts shall establish procedures for any further appellate review of such determinations, and may establish an expedited process for consolidated review of any such challenges by the Supreme Court, provided that any party seeking appellate review shall not change the deadlines established for municipal filing of a housing element and fair share plan, and implementing ordinances.

(2) (a) A municipality shall adopt a housing element and fair share plan as provided for by the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), and propose drafts of the appropriate zoning and other ordinances and resolutions to implement its present and prospective obligation established in paragraph (1) of this subsection on or before June 30, 2025. After adoption of the housing element and fair share plan, and the proposal of drafts of the appropriate zoning and other ordinances and resolutions, the municipality shall within 48 hours of adoption or by June 30, 2025, whichever is sooner, file the same with the program as part of the action initiated pursuant to subparagraph (b) of paragraph (1) of this subsection through the program’s Internet website. Any municipality that does not do so by June 30, 2025, shall not retain immunity from exclusionary zoning litigation until such time as the municipality is determined to have come into compliance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel
doctrine and shall be subject to review through the declaratory
judgment process as established in paragraph (3) of this subsection.
As part of its housing element and fair share plan, the municipality
shall include an assessment of the degree to which the municipality
has met its fair share obligation from the prior rounds of affordable
housing obligations as established by prior court approval, or approval
by the council, and determine to what extent this obligation is
unfulfilled or whether the municipality has credits in excess of its prior
round obligations. If a prior round obligation remains unfulfilled, or a
municipality never received an approval from court or the council for
any prior round, the municipality shall address such unfulfilled prior
round obligation in its housing element and fair share plan. Units
included as part of the municipality’s unfulfilled prior round obligation
shall not count towards the cap on units in the municipality’s
prospective need obligation. In addressing prior round obligations, the
municipality shall retain any sites that, in furtherance of the prior
round obligation, are the subject of a contractual agreement with a
developer, or for which the developer has filed a complete application
seeking subdivision or site plan approval prior to the date by which the
housing element and fair share plan are required to be submitted, and
shall demonstrate how any sites that were not built in the prior rounds
continue to present a realistic opportunity, which may include
proposing changes to the zoning on the site to make its development
more likely, and which may also include the dedication of municipal
affordable housing trust fund dollars or other monetary or in-kind
resources. The municipality shall only plan to replace any sites
planned for development as provided by a prior court approval,
settlement agreement, or approval by the council, with alternative
development plans, if it is determined that the previously planned sites
no longer present a realistic opportunity, and the sites in the alternative
development plan provide at least an equivalent number of affordable
units and are otherwise in compliance with the "Fair Housing Act,"
If a municipality proposes to replace a site for which a complete
application seeking subdivision or site plan approval has not been filed
prior to date by which the housing element and fair share plan is
required to be submitted, there shall be a rebuttable presumption in any
challenge filed to the municipality's plan that any site for which a zoning designation was adopted creating a realistic opportunity for the
development of a site prior to July 1, 2020, or July 1 of every 10th
year thereafter, as applicable, may be replaced with one or more
alternative sites that provide a realistic opportunity for at least the
same number of affordable units and is otherwise in compliance with
the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the
Mount Laurel doctrine. To the extent a municipality has credits,
including bonus credits, from units created during a prior round that
are otherwise permitted to be allocated toward the municipality’s
unfulfilled prior round obligation or present or prospective need
obligation in an upcoming round, the municipality shall be entitled to rely on the rules, including rules for bonus credits, applicable for the round during which those credits were accumulated. If a municipality has credits in excess of its prior round obligations, and such excess credits represent housing that will continue to be deed-restricted and affordable through the current round, the municipality may include such housing, and applicable bonus credits, towards addressing the municipality’s new calculation of prospective need. Consistent with subsection k. of section 11 of P.L.1985, c.222 (C.52:27D-311), the total number of bonus credits shall in no circumstance exceed 25 percent of the municipality’s prospective obligation in any round. The municipality may in its plan lower its prospective need obligation to the extent necessary to prevent establishing a prospective need obligation that requires the municipality to provide a realistic opportunity for more than 1,000 housing units, after the application of any excess credits, or to prevent a prospective need obligation that exceeds 20 percent of the total number of households in a municipality according to the most recent federal decennial census, not including any prior round obligation. If a municipality is subject to both a 1,000 unit cap or 20 percent cap it may apply whichever cap results in a lower prospective need obligation. For the fifth round, and for each subsequent new round of housing obligations, the deadlines in this paragraph shall be June 30 for the adoption of the housing element and fair share plan, and the proposal of drafts of the appropriate zoning and other ordinances and resolutions to implement its present and prospective obligation, of the year of the start of the new round.

(b) Following the filing, in an action, of an adopted housing element and fair share plan pursuant to subparagraph (a) of this paragraph, an interested party may file a response on or before August 31, 2025 alleging that the municipality’s fair share plan and housing element are not in compliance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine. Such allegation shall not include a claim that a site on real property proposed by the interested party is a better site than a site in the plan, but rather shall be based on whether the housing element and fair share plan as proposed is compliant with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine. To resolve a challenge, the program shall apply an objective assessment standard to determine whether or not the municipality’s housing element and fair share plan is compliant with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine. Any interested party that files a challenge shall specify with particularity which sites or elements of the municipal fair share plan do not comply with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) or the Mount Laurel doctrine, and the basis for alleging such non-compliance. The program shall establish procedures to summarily dismiss any objection or challenge that does not meet these minimum standards. For the purpose of efficiency, the program shall, in its own
discretion, permit multiple challenges to the same municipal housing element and fair share plan to be consolidated. If a municipality’s fair share plan and housing element is not challenged on or before August 31, 2025, then the program shall apply an objective standard to conduct a limited review of the fair share plan and housing element for consistency and to determine whether it enables the municipality to satisfy the fair share obligation, applies compliant mechanisms, meets the threshold requirements for rental and family units, does not exceed limits on other unit or category types, and is compliant with the “Fair Housing Act,” P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine (and). The program shall issue a compliance certification unless these objective standards are not met. The program shall facilitate communication between the municipality and any interested parties for a challenge, and provide the municipality until December 31, 2025 to commit to revising its fair share plan and housing element in compliance with the changes requested in the challenge, or provide an explanation as to why it will not make all of the requested changes, or both. Upon resolution of a challenge, the program shall issue compliance certification, conditioned on the municipality’s commitment, as necessary, to revise its fair share plan and housing element in accordance with the resolution of the challenge. The program may also terminate immunity if it finds that the municipality is not determined to come into constitutional compliance at any point in the process. If by December 31, 2025, the municipality and any interested party that filed a response have resolved the issues raised in the response through agreement or withdrawal of the filing, then the program shall review the fair share plan and housing element for consistency and to determine whether it is compliant with the “Fair Housing Act,” P.L.1985, c.222 (C.52:27D-301 et al.) and the Mount Laurel doctrine, and issue a compliance certification unless these objective standards are not met. For the fifth round, and each subsequent new round of housing obligations, the deadline established in this subparagraph for an interested party to file a challenge shall be August 31, and for the municipality to revise its housing element and fair share plan in response, shall be December 31, of the year of the beginning of the new round.

(c) For the fourth round of affordable housing obligations, the implementing ordinances and resolutions, proposed pursuant to subparagraph (a) of this paragraph, and incorporating any changes from the program, shall be adopted on or before March 15, 2026. For the fifth round, and each subsequent new round of housing obligations, the deadline established in this subparagraph for the implementing ordinances and resolutions shall be on March 15 of the year following the beginning of the new round. After adoption of the implementing ordinances and resolutions by the municipality, the municipality shall immediately file the ordinances and resolutions with the program through the program’s Internet website. Failure to meet the March 15
deadline shall result in the municipality losing immunity from
builder’s remedy exclusionary zoning litigation.
(d) The program may permit a municipality that still has a
remaining dispute by interested parties to retain immunity from
builder’s remedy exclusionary zoning litigation into the year
following the year in which a new round begins if the program, or
county level housing judge, determines that the municipality has been
unable to resolve the issues disputed despite being determined to come
into constitutional compliance. The Administrative Director of the
Courts shall develop procedures to enable a county level housing judge
to resolve this dispute over the issuance of compliance certification
through a summary proceeding in Superior Court following the year in
which the new round begins. A judge shall be permitted to serve as a
county level housing judge for more than one county in the same
vicinage. The pendency of such a dispute shall not stay the deadline
for adoption of implementing ordinances and resolutions pursuant to
this paragraph. The implementing ordinances and resolutions
adopted prior to the resolution of the dispute may be subject to
changes to reflect the results of the dispute. As an alternative to
adopting all necessary implementing ordinances and
resolutions by the March 15 deadline, a municipality involved in a
continuing dispute over the issuance of compliance certification may
adopt a binding resolution by this date to commit to adopting the
implementing ordinances and resolutions following resolution of the
dispute, with necessary adjustments to reflect the resolution of the
dispute.
(e) Once a municipality has received a compliance certification or
otherwise has had its fair share obligation and housing element and
fair share plan finally determined via judgment of repose or other
judgment, the municipality shall make the municipality’s fair share
plan and housing element, as well as any subsequently adopted
implementing ordinances and resolutions, or amendments thereto,
available to the department and the program for publication on the
department’s and program’s respective Internet websites.
(3) (a) If a municipality fails to materially adhere to any of the
deadlines established in paragraphs (1) or (2) of this subsection due to
circumstances beyond the control of the municipality, including but
not limited to an inability to meet a deadline due to an extreme
weather event, then the program, or the county level housing judge, in
accordance with court rules, may permit a municipality to have a grace
period to come into compliance with the timeline, the length of which,
and effect of which on later deadlines, shall be determined on a case-
by-case basis.
(b) A municipality that has not adopted and published a binding
resolution pursuant to paragraph (1) of this subsection or that has not
adopted and filed a housing element and fair share plan pursuant to
paragraph (2) of this subsection may seek compliance certification by
filing an action pursuant to section 13 of P.L.1985, c.222 (C.52:27D-313), provided that any exclusionary zoning litigation filed by a plaintiff against such a municipality prior to such filing in a municipality that has adopted and published a binding resolution pursuant to paragraph (1) of this subsection and has adopted and filed a housing element and fair share plan pursuant to paragraph (2) of this subsection, a court shall not consider a builder’s remedy to a plaintiff in exclusionary zoning litigation during the timeframe after the timely submission of a binding resolution or fair share plan and housing element of a municipality, or both, and before a challenge is submitted, or during the timeframe of a challenge that is pending resolution with the program pursuant to this subsection. A court may consider a builder’s remedy to a plaintiff in exclusionary zoning litigation after such timeframe upon a finding that the municipality: (i) is determined to be constitutionally noncompliant with its responsibilities pursuant to the “Fair Housing Act,” P.L.1985, c.222 (C.52:27D-301 et al.) or is participating in the program in bad faith; (ii) has failed to meet the deadlines established pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill); or (iii) has, after receiving compliance certification, failed to comply with the terms of that certification by not actually allowing for the development of the affordable housing as provided for in its fair share plan and housing element through actions, omissions, or both, of a municipality or its subordinate boards.

(c) All parties shall bear their own fees and costs in proceedings before the program.

(d) A determination by the program as to the present and prospective need obligation or as to issuance of compliance certification pursuant to this section shall be considered a final decision, subject to appellate review pursuant to the procedures set forth in subparagraph (c) of paragraph (1) of subsection f. of this section.

(e) A municipality shall not be deemed out of compliance with the deadlines of P.L. , c. (C. ) (pending before the Legislature as this bill), or lose immunity from exclusionary zoning litigation, due to a failure by the program to promptly maintain and update its Internet website, or other operational failure of the program.

The program shall be made a party to, and shall be responsible for defending its issuance of compliance certification in, any litigation alleging that, despite the issuance of compliance certification, a municipality’s fair share obligation, fair share plan, housing element, or ordinances implementing the fair share plan or housing element are not in compliance with the Mount Laurel doctrine. A compliance certification, issued pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill), shall be
accompanied by a written report that shall set forth the basis of the issuance of the certification, and shall be in a format to be developed and approved by the Administrative Director of the Courts.

4. Section 13 of P.L.1985, c.222 (C.52:27D-313) is amended to read as follows:

13. a. If a municipality has filed a housing element, petition the council for a substantive certification of its element and ordinances or adopted a housing element and fair share plan pursuant to section 3 of P.L., c. (C.) (pending before the Legislature as this bill), but has failed to satisfy the June 30 deadline established pursuant to paragraph (2) of subsection f. of section 3 of P.L., c. (C.) (pending before the Legislature as this bill), for any round of affordable housing obligations, the municipality may request and be provided with a grace period pursuant to paragraph (3) of subsection f. of section 3 of P.L., c. (C.) (pending before the Legislature as this bill), if authorized by the program or county level housing judge, as determined by the rules of court. If a municipality that has not satisfied this June 30 deadline is not provided with a grace period, the municipality may institute an action for declaratory judgment granting it repose in the Superior Court, but in no event shall a grant of substantive certification extend beyond a 10-year period starting on the date the municipality files its housing element with the council for the 10-year period constituting the current round of fair share obligations. The municipality shall publish notice of its filing of a declaratory judgment action in a newspaper of general circulation within the municipality and county and shall make available to the public information on the element and ordinances by submitting such information to the program to be published on the Internet website of the program in accordance with such procedures as the council shall establish. The council shall also establish a procedure for providing public notice of each petition which it receives section 3 of P.L., c. (C.) (pending before the Legislature as this bill).

b. Notwithstanding the provisions of subsection a. of this section, a municipality which filed a housing element prior to the effective date of P.L.1990, c.121, shall be permitted to petition for substantive certification at any time within two years following that filing, or within one year following the effective date of P.L.1990, c.121, whichever shall result in permitting the municipality the longer period of time within which to petition. (Deleted by amendment, P.L., c. (pending before the Legislature as this bill)

[The Council shall establish procedures for] c. (1) A municipality or other interested party may file an action through the program seeking a realistic opportunity review at the midpoint of the certification period and shall provide for notice to the public at the
midpoint of the certification period and shall provide for notice to the
public, including a realistic opportunity review of any inclusionary
development site in the housing element and fair share plan that has
not received preliminary site plan approval prior to the midpoint of the
10-year round. If such an action is initiated by a municipality, the
municipality [shall] may propose one or more alternative sites with
an accompanying development plan or plans that provide a realistic
opportunity for the same number of affordable units and is otherwise
in compliance with the "Fair Housing Act," P.L.1985, c.222
(C.52:27D-301 et al.) and the Mount Laurel doctrine, provided that if
the facts demonstrate that the municipality or its subordinate boards
have prevented the site from receiving site plan approval, then the
program shall reject the municipality’s challenge.

(2) Any party may file a request for information from the program
regarding the progress of development at any inclusionary
development site in the housing element and fair share plan of a
municipality, or at any alternative site proposed by the municipality.
The program may respond to a request independently or in
coordination with the department.

(cf: P.L.2001, c.435, s.5)

5. (New section) a. There is established an Affordable Housing
Dispute Resolution Program that shall have the purpose of efficiently
resolving disputes involving the "Fair Housing Act," P.L.1985, c.222
(C.52:27D-301 et al.), to consist of an odd number of members, of at
least three and no more than seven members who shall lead the
administration of the program. The [Chief Justice of the Supreme
Court] Administrative Director of the Courts shall update the
assignment of designated Mount Laurel judges to indicate which
current or retired and on recall judges of the Superior Court shall serve
as members, within [40] 60 days following the effective date of
P.L. , c. (C. ) (pending before the Legislature as this bill). The
Chief Justice of the Supreme Court Administrative Director of the
Courts may appoint other qualified experts as members if sufficient
current and retired judges are unavailable. The Chief Justice of the
Supreme Court Administrative Director of the Courts shall take into
consideration in making such appointments experience in the
employment of alternative dispute resolution methods and in relevant
subject matter.

b. The Chief Justice of the Supreme Court Administrative
Director of the Courts shall designate a member to serve as chair.
The Chief Justice of the Supreme Court Administrative Director of
the Courts shall make new appointments as needs arise for new
appointments.

c. The program, in its discretion and in accordance with Rules of
Court, may consult or employ the services of one or more special
masters or staff to assist it in rendering determinations, resolving
disputes, and facilitating communication as required by subparagraph 
(b) of paragraph (2) of subsection f. of section 3 of P.L. 1985, c. 
(C. 52:27D-301 et al.) (pending before the Legislature as this bill). In addition, the 
program may incorporate any existing or newly established court 
mediation or alternative dispute resolution process to assist the 
program in resolving disputes and facilitating communication among 
municipalities and interested parties.

d. The Administrative Director of the Courts shall establish a 
filing system via an Internet website in which the public is able to 
access, without cost, filings made pursuant to P.L. 1985, c. 222 
(C.52:27D-301 et al.) (pending before the Legislature as this bill) and such other related 
filings as the Administrative Director of the Courts may include on the 
filing system.

e. The Administrative Director of the Courts may assign 
additional responsibilities to the program for resolving disputes arising 
out of or related to the "Fair Housing Act," P.L.1985, c.222 
(C.52:27D-301 et al.).

f. The Administrative Director of the Courts shall establish 
procedures for the purpose of efficiently resolving disputes involving 
the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), for 
circumstances in which the program is unable to address the dispute 
within the time limitations established pursuant to section 3 of P.L. 1985, c. 
(C. 52:27D-301 et al.) (pending before the Legislature as this bill). As a part of 
the procedures established pursuant to this section, in order to facilitate 
an appropriate level of localized control of affordable housing 
decisions, for each vicinage, the Chief Justice of the Supreme Court 
shall designate a Superior Court judge who sits within the vicinage, or 
a retired judge who, during the judge’s tenure as a judge, served within 
the vicinage, to serve as county level housing judge to resolve disputes 
over the compliance, of fair share plans and housing elements of 
municipalities within their designated county or counties, with the 
"Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), as well as 
disputes that arise with respect to ongoing compliance or 
noncompliance with obligations created by fair share plans, housing 
et al.). A judge shall be permitted to serve as a county level housing 
judge for more than one county in the same vicinage.

g. The Administrative Director of the Courts shall promulgate, 
maintain, and apply a Code of Ethics that is modeled upon the Code of 
Judicial Conduct of the American Bar Association, as amended and 
adopted by the Supreme Court of New Jersey, and may establish 
additional, more restrictive ethical standards in order to meet the 
specific needs of the program, and of county level housing judges.

6. (New section) a. Municipal present need for each 10-year 
round of affordable housing obligations shall be determined by 
estimating the deficient housing units occupied by low- and moderate-
income households in the region, following a methodology similar to
the methodology used to determine third round municipal present need, through the use of most recent datasets made available through the federal decennial census and the American Community Survey \^2, including the Comprehensive Housing Affordability Strategy dataset thereof\^2.

b. For the purpose of determining regional need for the 10-year round of low- and moderate-income housing obligations, running from July 1, 2025 through June 30, 2035, and each 10-year round thereafter:

(1) The regions of the State shall be comprised as follows:

(a) Region 1 shall consist of the counties of Bergen, Hudson, Passaic, and Sussex;

(b) Region 2 shall consist of the counties of Essex, Morris, Union, and Warren;

(c) Region 3 shall consist of the counties of Hunterdon, Middlesex, and Somerset;

(d) Region 4 shall consist of the counties of Mercer, Monmouth, and Ocean;

(e) Region 5 shall consist of the counties of Burlington, Camden, and Gloucester; and

(f) Region 6 shall consist of the counties of Atlantic, Cape May, Cumberland, and Salem.

(2) Regional prospective need for a 10-year round of low- and moderate-income housing obligations shall be determined through the calculation provided in this subsection. Projected household change for a 10-year round in a region shall be estimated by establishing the household change experienced in the region between the most recent federal decennial census, and the second-most recent federal decennial census. This household change, if positive, shall be divided by 2.5 to estimate the number of low- and moderate-income homes needed to address low- and moderate-income household change in the region, and to determine the regional prospective need for a 10-year round of low- and moderate-income housing obligations. If household change is zero or negative, the number of low- and moderate-income homes needed to address low- and moderate-income household change in the region and the regional prospective need shall be zero.

7. (New section) a. The present and prospective fair share obligation for low- and moderate-income housing for each municipality in the State shall be determined as described in this section. In addition, the March 8, 2018 unpublished decision of the Superior Court, Law Division, Mercer County, In re Application of Municipality of Princeton shall be referenced as to datasets and methodologies that are not explicitly addressed by this section. These determinations of municipal present and prospective need shall be based on a determination of the present and prospective regional need for low- and moderate-income housing, established pursuant to section 6 of P.L. ... c. (C. ) (pending before the Legislature as this bill).
These calculations of municipal present and prospective need shall use necessary datasets that are updated to the greatest extent practicable.

b. A municipality’s present need obligation shall be determined by estimating the existing deficient housing units currently occupied by low- and moderate-income households within the municipality, following a methodology comparable to the methodology used to determine third round present need, through the use of datasets made available through the federal decennial census and the American Community Survey, including the Comprehensive Housing Affordability Strategy dataset thereof.

c. A municipality’s prospective fair share obligation of the regional prospective need for the upcoming 10-year round shall be determined in accordance with this subsection:

(1) If a municipality is a qualified urban aid municipality, the municipality shall be exempt from responsibility for any fair share prospective need obligation for the upcoming 10-year round. For the purposes of this section, a municipality is a qualified urban aid municipality if the municipality, as of July 1 of the year prior to the beginning of a new round, is designated by the department, pursuant to P.L. 1978, c. 14 (C. 52: 27D-178 et seq.), to receive State aid, and the municipality meets at least one of the following criteria:

(a) The ratio of substandard existing deficient housing units currently occupied by low- and moderate-income households within the municipality, compared to all existing housing in the municipality, is greater than the equivalent ratio in the region;

(b) The municipality has a population density greater than 10,000 persons per square mile of land area; or

(c) The municipality has a population density of more than 6,000, but less than 10,000 persons per square mile of land area, and less than five percent vacant parcels not used as farmland, as measured by the average of:

(i) The number of vacant land parcels in the municipality as a percentage of the total number of parcels in the municipality; and

(ii) The valuation of vacant land in the municipality as a percentage of total valuations in the municipality.

(2) A municipality’s equalized nonresidential valuation factor shall be determined. To determine this factor, the changes in nonresidential property valuations in the municipality, since the beginning of the round preceding the round being calculated, shall be calculated using data published by the Division of Local Government Services in the department. For the purposes of this paragraph, the beginning of the round of affordable housing obligations preceding the fourth round shall be the beginning of the gap period in 1999. The change in the municipality’s nonresidential valuations shall be divided by the regional total change in nonresidential valuations to determine the municipality’s share of the regional change as the equalized nonresidential valuation factor.
(3) A municipality’s income capacity factor shall be determined. This factor shall be determined by calculating the average of the following measures:

(a) The municipal share of the regional sum of the differences between the median municipal household income, according to the most recent American Community Survey Five-Year Estimates, and an income floor of $100 below the lowest median household income in the region; and

(b) The municipal share of the regional sum of the differences between the median municipal household incomes and an income floor of $100 below the lowest median household income in the region, weighted by the number of the households in the municipality.

(4) A municipality’s land capacity factor shall be determined. This factor shall be determined by estimating the area of developable and redevelopable land in the municipality’s boundaries, and regional boundaries, that may accommodate development through the use of the "land use / land cover data" most recently published by the Department of Environmental Protection, data from the American Community Survey and Comprehensive Housing Affordability Strategy dataset thereof, MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and construction permit data from the Department of Community Affairs, and weighing such land based on the planning area type in which such land is located. After the weighing factors are applied, the sum of the total developable and redevelopable land area that may accommodate development in the municipality, and in the region shall be determined. The municipality’s share of its region’s developable and redevelopable land shall be its land capacity factor.

Developable and redevelopable land that may accommodate development shall be weighted based on the planning area type in which such land is located, as designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.), P.L.1979, c.111 (C.13:18A-1 et seq.), or P.L.2004, c.120 (C.13:20-1 et seq.), as follows:

(a) Planning Area 1 (Metropolitan) shall have a weighting factor of 1.0;

(b) Planning Area 2 (Suburban) shall have a weighting factor of 1.0;

(c) Planning Area 3 (Fringe) shall have a weighting factor of 0.5;

(d) Planning Area 4 (Rural) shall have a weighting factor of 0.0;

(e) Planning Area 5 (Environmentally Sensitive) shall have a weighting factor of 0.0;

(f) Centers in Planning Areas 1 and 2 shall have a weighting factor of 1.0;

(g) Centers in Planning Areas 3, 4, and 5 shall have a weighting factor of 0.5;

(h) Pinelands Regional Growth Area shall have a weighting factor of 0.5;
(i) Pinelands Town shall have a weighting factor of 0.5;
(j) All other Pinelands shall have a weighting factor of 0.0;
(k) Meadowlands shall have a weighting factor of 1.0;
(l) Meadowlands Center shall have a weighting factor of 1.0;
(m) Highlands Preservation Area shall have a weighting factor of 0.0;
(n) Highlands Planning Area Existing Community Zone[^1] opted in municipality by May 1, 2022[^2] and Highlands Designated Center in a Highlands-conforming municipality, as determined by the Highlands Water Protection and Planning Council pursuant to the list provided to the department pursuant to subsection d. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill),[^2] shall have a weighting factor of 1.0;
(o) Highlands Planning Area, State-designated sewer service area,[^1] municipality not opted in by May 1, 2022[^2] Highlands municipality that is not a Highlands-conforming municipality as determined by the Highlands Water Protection and Planning Council pursuant to the list provided to the department pursuant to subsection d. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill),[^2] shall have a weighting factor of 1.0; and
(p) All other Highlands Planning Areas shall have a weighting factor of 0.0.

(5) The equalized nonresidential valuation factor, income capacity factor, and land capacity factor, determined in paragraphs (2), (3), and (4) of this subsection, shall be averaged to yield the municipality’s average allocation factor for distributing gross regional prospective need to the municipality. The regional prospective need shall then be multiplied by the municipality’s average allocation factor to determine the municipality’s gross prospective need for the 10-year round.

[^1] Secondary sources of supply and demand shall be adjusted for by first calculating demolitions of low- and moderate-income housing, and housing creation through low- and moderate-income residential conversions. A municipality’s share of low- and moderate-income conversions shall then be subtracted from the sum of each municipality’s allocated share of gross prospective need and demolitions of low- and moderate-income housing.[^2]

8. Section 4 of P.L.1995, c.244 (C.2A:50-56) is amended to read as follows:

4. a. Upon failure to perform any obligation of a residential mortgage by the residential mortgage debtor and before any residential mortgage lender may accelerate the maturity of any residential mortgage obligation and commence any foreclosure or other legal action to take possession of the residential property which is the subject of the mortgage, the residential mortgage lender shall give a notice of intention, which shall include a notice of the right to cure the default as provided in section 5 of P.L.1995,
c.244 (C.2A:50-57), at least 30 days, but not more than 180 days, in
advance of such action as provided in this section, to the residential
mortgage debtor, and, if the mortgage is secured by a residence for
which a restriction on affordability was recorded in the county in
which the property is located, the clerk of the municipality in which
the subject property is located, the municipal housing liaison, if one
has been appointed by the municipality pursuant to the regulations
of the Council on Affordable Housing, and the Commissioner of
Community Affairs. For the purposes of this section, “restriction
on affordability” means any conditions recorded with a mortgage or
da deed which would limit the sale of such property to income
qualified households pursuant to the rules adopted to effectuate the

b. Notice of intention to take action as specified in subsection
a. of this section shall be in writing, provided to the Department of
Community Affairs in accordance with subsection a. of section 2 of
P.L.2019, c.134 (C.46:10B-49.2), sent to the debtor by registered or
certified mail, return receipt requested, at the debtor's last known
address, and, if different, to the address of the property which is the
subject of the residential mortgage. The notice is deemed to have
been effectuated on the date the notice is delivered in person or
mailed to the party.

c. The written notice shall clearly and conspicuously state in a
manner calculated to make the debtor aware of the situation:
(1) the particular obligation or real estate security interest;
(2) the nature of the default claimed;
(3) the right of the debtor to cure the default as provided in
section 5 of P.L.1995, c.244 (C.2A:50-57);
(4) what performance, including what sum of money, if any, and
interest, shall be tendered to cure the default as of the date specified
under paragraph (5) of this subsection c.;
(5) the date by which the debtor shall cure the default to avoid
initiation of foreclosure proceedings, which date shall not be less
than 30 days after the date the notice is effective, and the name and
address and phone number of a person to whom the payment or
tender shall be made;
(6) that if the debtor does not cure the default by the date
specified under paragraph (5) of this subsection c., the lender may
take steps to terminate the debtor's ownership in the property by
commencing a foreclosure suit in a court of competent jurisdiction;
(7) that if the lender takes the steps indicated pursuant to
paragraph (6) of this subsection c., a debtor shall still have the right
to cure the default pursuant to section 5 of P.L.1995, c.244
(C.2A:50-57), but that the debtor shall be responsible for the
lender's court costs and attorneys' fees in an amount not to exceed
that amount permitted pursuant to the Rules Governing the Courts
of the State of New Jersey;
(8) the right, if any, of the debtor to transfer the real estate to another person subject to the security interest and that the transferee may have the right to cure the default as provided in P.L.1995, c.244 (C.2A:50-53 et seq.), subject to the mortgage documents;

(9) that the debtor is advised to seek counsel from an attorney of the debtor's own choosing concerning the debtor's residential mortgage default situation, and that, if the debtor is unable to obtain an attorney, the debtor may communicate with the New Jersey Bar Association or Lawyer Referral Service in the county in which the residential property securing the mortgage loan is located; and that, if the debtor is unable to afford an attorney, the debtor may communicate with the Legal Services Office in the county in which the property is located;

(10) the possible availability of financial assistance for curing a default from programs operated by the State or federal government or nonprofit organizations, if any, as identified by the Commissioner of Banking and Insurance and, if the property is subject to restrictions on affordability, the address and phone number of the municipal affordable housing liaison and of the New Jersey Housing and Mortgage Finance Agency. This requirement shall be satisfied by attaching a list of such programs promulgated by the commissioner;

(11) the name and address of the lender and the telephone number of a representative of the lender whom the debtor may contact if the debtor disagrees with the lender's assertion that a default has occurred or the correctness of the mortgage lender's calculation of the amount required to cure the default;

(12) that if the lender takes the steps indicated pursuant to paragraph (6) of this subsection, the debtor has the option to participate in the Foreclosure Mediation Program following the filing of a mortgage foreclosure complaint by initiating mediation pursuant to paragraph (2) of subsection a. of section 4 of P.L.2019, c.64 (C.2A:50-77). Notice of the option to participate in the Foreclosure Mediation Program shall adhere to the requirements of section 3 of P.L.2019, c.64 (C.2A:50-76) and any court rules, procedures, or guidelines adopted by the Supreme Court;

(13) that the debtor is entitled to housing counseling, at no cost to the debtor, through the Foreclosure Mediation Program established by the New Jersey Judiciary, including information on how to contact the program;

(14) that if the property which is the subject of the mortgage has more than one dwelling unit but less than five, one of which is occupied by the debtor or a member of the debtor's immediate family as the debtor's or member's residence at the time the loan is originated, and is not properly maintained and meets the necessary conditions for receivership eligibility, established pursuant to section 4 of the "Multifamily Housing Preservation and Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential
mortgage lender shall file an order to show cause to appoint a receiver; and

(15) that the lender is either licensed in accordance with the "New Jersey Residential Mortgage Lending Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89) or exempt from licensure under the act in accordance with applicable law.

d. The notice of intention to foreclose required to be provided pursuant to this section shall not be required if the debtor has voluntarily surrendered the property which is the subject of the residential mortgage.

e. The duty of the lender under this section to serve notice of intention to foreclose is independent of any other duty to give notice under the common law, principles of equity, State or federal statute, or rule of court and of any other right or remedy the debtor may have as a result of the failure to give such notice.

f. Compliance with this section and subsection a. of section 2 of P.L.2019, c.134 (C.46:10B-49.2) shall be set forth in the pleadings of any legal action referred to in this section. If the plaintiff in any complaint seeking foreclosure of a residential mortgage alleges that the property subject to the residential mortgage has been abandoned or voluntarily surrendered, the plaintiff shall plead the specific facts upon which this allegation is based.

g. If more than 180 days have elapsed since the date the notice required pursuant to this section is sent, and any foreclosure or other legal action to take possession of the residential property which is the subject of the mortgage has not yet been commenced, the lender shall send a new written notice at least 30 days, but not more than 180 days, in advance of that action.

h. If the property which is the subject of the notice of intention to foreclose has more than one dwelling unit but less than five, one of which is occupied by the debtor or a member of the debtor's immediate family as the debtor's or member's residence at the time the loan is originated, and is not properly maintained and meets the necessary conditions for receivership eligibility, established pursuant to section 4 of the "Multifamily Housing Preservation and Receivership Act," P.L.2003, c.295 (C.2A:42-117), the residential mortgage lender shall file an order to show cause to appoint a receiver.

(cf: P.L.2019, c.134, s.4)

9. Section 2 of P.L.2005, c.306 (C.5:18-2) is amended to read as follows:

2. The New Jersey Council on Physical Fitness and Sports, established under P.L.1999, c.265 (C.26:1A-37.5 et seq.) is authorized to provide grants to assist low-income families in purchasing the protective eyewear. As used in this section, a "low-
income family" means a family which qualifies for low-income
housing under the standards promulgated by the Council on
Affordable Housing, New Jersey Housing and Mortgage Finance
Agency, pursuant to the "Fair Housing Act," P.L.1985, c.222
(C.52:27D-301 et al.).
(cf: P.L.2005, c.306, s.2)

10. Section 25 of P.L.2004, c.120 (C.13:20-23) is amended to
read as follows:

25. a. The Council on Affordable Housing shall take into
consideration the regional master plan prior to making any shall
be taken into account as part of the determination of obligations
pursuant to the method in section 7 of P.L. , c. (pending before the Legislature as this bill) regarding the allocation
of the prospective fair share of the housing need in any
municipality in the Highlands Region under the "Fair Housing
period subsequent to the effective date of the Highlands Region.

b. Nothing in this act P.L.2004, c.120 (C.13:20-1 et al.) shall
affect protections provided through a grant of substantive
certification or a judgment of repose granted prior to the date of enactment of this act August 10, 2004.
(cf: P.L.2004, c.120, s.25)

11. Section 5 of P.L.2009, c.53 (C.17:11C-55) is amended to
read as follows:

5. The requirements of this act shall not apply to:

a. Depository institutions; but subsidiaries and service
institutions of these institutions shall not be exempt. A depository
institution may register with the department for the purpose of
sponsoring individuals, licensed as mortgage loan originators
subject to subparagraph (b) of paragraph (1) of subsection c. of
section 4 of P.L.2009, c.53 (C.17:11C-54), provided that such
registered entity obtains and maintains bond coverage for mortgage
loan originators consistent with section 13 of P.L.2009, c.53
(C.17:11C-63). A depository institution registered with the
department in accordance with this subsection a. shall otherwise
remain exempt from the licensing requirements of P.L.2009, c.53
(C.17:11C-51 et seq.).

b. A registered mortgage loan originator that is registered
under the federal "Secure and Fair Enforcement for Mortgage
et seq.).

c. A licensed attorney who negotiates the terms of a residential
mortgage loan on behalf of a client as an ancillary matter to the
attorney's representation of the client, unless the attorney is
compensated by a residential mortgage lender, residential mortgage
broker, or mortgage loan originator.

d. A person licensed as a real estate broker or salesperson
pursuant to R.S.45:15-1 et seq., and not engaged in the business of a
residential mortgage lender or residential mortgage broker. Any
person holding a license under this act as a residential mortgage
lender or broker shall be exempt from the licensing and other
requirements of R.S.45:15-1 et seq. in the performance of those
functions authorized by this act.

e. Any employer, other than a residential mortgage lender, who
provides residential mortgage loans to his employees as a benefit of
employment which are at an interest rate which is not in excess of
the usury rate in existence at the time the loan is made, as
established in accordance with the law of this State, and on which
the borrower has not agreed to pay, directly or indirectly, any
charge, cost, expense or any fee whatsoever, other than that interest.

f. The State of New Jersey or a municipality, or any agency or
instrumentality thereof, which, in accordance with a housing
element that has previously received substantive certification from
the Council on Affordable Housing, or a judgment of repose or
other court approval, pursuant to the "Fair Housing Act," P.L.1985,
c.222 (C.52:27D-301 et al.), or in fulfillment of a regional
contribution agreement with a municipality that has received a
certification, employs or proposes to employ municipally generated
funds, funds obtained through any State or federal subsidy, or funds
acquired by the municipality under a regional contribution
agreement, to finance the provision of affordable housing by
extending loans or advances, the repayment of which is secured by
a lien, subordinate to any prior lien, upon the property that is to be
rehabilitated.

g. Any individual who offers or negotiates terms of a
residential mortgage loan:
(1) with or on behalf of an immediate family member; or
(2) secured by a dwelling that serves as the individual's
residence.

h. Any person who, during a calendar year takes three or fewer
residential mortgage loan applications or offers or negotiates the
terms of three or fewer residential mortgage loans or makes three or
fewer residential mortgage loans related to manufactured housing
structures which are:
(1) titled by the New Jersey Motor Vehicle Commission;
(2) located in a mobile home park as defined in subsection e. of
section 3 of P.L.1983, c.400 (C.54:4-1.4); and
(3) exempt from taxation as real property pursuant to subsection
b. of section 4 of P.L.1983, c.400 (C.54:4-1.5).

i. A bona fide not for profit entity and any individuals directly
employed by that entity, so long as the entity maintains its tax
exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986 and otherwise meets the definition of "bona fide not for profit entity" in section 3 of P.L.2009, c.53 (C.17:11C-53), as periodically determined by the department in accordance with rules established by the commissioner.

(cf: P.L.2018, c.108, s.3)

12. Section 2 of P.L.1991, c.465 (C.39:4-10.2) is amended to read as follows:

2. a. A person who violates a requirement of this act shall be warned of the violation by the enforcing official. The parent or legal guardian of that person also may be fined a maximum of $25 for the person's first offense and a maximum of $100 for a subsequent offense if it can be shown that the parent or guardian failed to exercise reasonable supervision or control over the person's conduct. Penalties provided in this section for a failure to wear a helmet may be waived if an offender or his parent or legal guardian presents suitable proof that an approved helmet was owned at the time of the violation or has been purchased since the violation occurred.

b. All money collected as fines under subsection a. of this section and subsection a. of section 2 of P.L.1997, c.411 (C.39:4-10.6) shall be deposited in a nonlapsing revolving fund to be known as the "Bicycle and Skating Safety Fund." Interest earned on money deposited in the fund shall accrue to the fund. Money in the fund shall be utilized by the director to provide educational programs devoted to bicycle, roller skating and skateboarding safety. If the director determines that sufficient money is available in the fund, he also may use, in a manner prescribed by rule and regulation, the money to assist [low income] low-income families in purchasing approved bicycle helmets. For the purposes of this subsection, ["low income family"] "low-income family" means a family which qualifies for [low income] low-income housing under the standards promulgated by the [Council on Affordable Housing] New Jersey Housing and Mortgage Finance Agency pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et seq.).

(cf: P.L.1997, c.411, s.11)

13. Section 33 of P.L.2008, c.46 (C.40:55D-8.2) is amended to read as follows:

33. The Legislature finds and declares:

a. The collection of development fees from builders of residential and non-residential properties has been authorized by the court through the powers [delegated to the Council on Affordable Housing] established pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.). Due to the Legislature’s determination that the role of the Council on Affordable Housing has not
developed in practice as intended, the Legislature further
determines that authority relating to rulemaking on the collection of
residential and non-residential development fees is appropriately
delegated to the Department of Community Affairs, given the
department’s existing roles related to local government finance and
the funding and financing of affordable housing throughout the
State.

b. New Jersey’s land resources are becoming more scarce, while
its redevelopment needs are increasing. In order to balance the
needs of developing and redeveloping communities, a reasonable
method of providing for the housing needs of low and moderate
income, low- and moderate-, and middle income middle-income
households, without mandating the inclusion of housing in every
non-residential project, must be established.

c. A Statewide non-residential development fee program, which
permits municipalities under the council’s jurisdiction that have
obtained or are in the process of seeking compliance certification to
retain these fees for use in the municipality will provide a fair and
balanced funding method to address the State’s affordable housing
needs, while providing an incentive to all municipalities to seek
substantive compliance certification from the council.

d. Whereas, pursuant to P.L.1977, c.110 (C.5:12-1 et seq.),
organizations are directed to invest in the Casino Reinvestment
Development Authority to ensure that the development of housing
for families of low and moderate income low- and moderate-
income shall be provided. The Casino Reinvestment Development
Authority, in consultation with the council, shall work to
effectuate the purpose and intent of P.L.1985, c.222 (C.52:27D-301
et al.).

e. The "Statewide Non-Residential Development Fee Act,”
sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through
C.40:55D-8.7), prohibits municipalities from imposing their own
fees to fund affordable housing on non-residential development, and
P.L.2009, c.90 (C.52:27D-489a et al.) is not intended to alter this
underlying policy. Deleted by amendment P.L. , c. (pending
before the Legislature as this bill)

f. The negative impact of a State policy that over-relies on a
municipal fee structure and of State programs that require a
municipality to impose fees and charges on developers must be
balanced against any public good expected from such regulation. It
is undisputable that the charging of fees at high levels dissuades
commerce from locating within a State or municipality or locality
and halts non-residential and residential development, and these ill
effects directly increase the overall costs of housing, and could
impede the constitutional obligation to provide for a realistic
opportunity for housing for families at all income levels.
(cf: P.L.2009, c.90, s.36)
14. Section 34 of P.L.2008, c.46 (C.40:55D-8.3) is amended to read as follows:

34. As used in sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7):

"Construction" means new construction and additions, but does not include alterations, reconstruction, renovations, and repairs as those terms are defined under the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.).

"Commissioner" means the Commissioner of Community Affairs.

"Council" means the Council on Affordable Housing, established pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

"Department" means the Department of Community Affairs.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

"Mixed use development" means any development which includes both a non-residential development component and a residential development component, and shall include developments for which (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities may be considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-residential developments are located on the same lot or adjoining lots, including but not limited to lots separated by a street, a river, or another geographical feature.

"Non-residential development" means: (1) any building or structure, or portion thereof, including but not limited to any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code promulgated to effectuate the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), including any subsequent amendments or revisions thereto; (2) hotels, motels, vacation timeshares, and child-care facilities; and (3) the entirety of all continuing care facilities within a continuing care retirement community which is subject to the "Continuing Care
"Non-residential development fee" means the fee authorized to be imposed pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7).

"Relating to the provision of housing" shall be liberally construed to include the construction, maintenance, or operation of housing, including but not limited to the provision of services to such housing and the funding of any of the above.

"Spending plan" means a method of allocating funds collected and to be collected pursuant to an approved municipal development fee ordinance, or pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) for the purpose of meeting the housing needs of low and moderate income individuals.

"Treasurer" means the Treasurer of the State of New Jersey.

15. Section 35 of P.L.2008, c.46 (C.40:55D-8.4) is amended to read as follows:

35. a. Beginning on the effective date of P.L.2008, c.46 (C.52:27D-329.1 et al.), a fee is imposed on all construction resulting in non-residential development, as follows:

(1) A fee equal to two and one-half percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots; or

(2) A fee equal to two and one-half percent of the increase in equalized assessed value, of the additions to existing structures to be used for non-residential purposes.

b. All non-residential construction of buildings or structures on property used by churches, synagogues, mosques, and other houses of worship, and property used for educational purposes, which is tax-exempt pursuant to R.S.54:4-3.6, shall be exempt from the imposition of a non-residential development fee pursuant to this section, provided that the property continues to maintain its tax exempt status under that statute for a period of at least three years from the date of issuance of the certificate of occupancy. In addition, the following shall be exempt from the imposition of a non-residential development fee:

(1) parking lots and parking structures, regardless of whether the parking lot or parking structure is constructed in conjunction with a non-residential development, such as an office building, or whether the parking lot is developed as an independent non-residential development;

(2) any non-residential development which is an amenity to be made available to the public, including, but not limited to, recreational facilities, community centers, and senior centers, which are developed in conjunction with or funded by a non-residential developer;
(3) non-residential construction resulting from a relocation of or an on-site improvement to a nonprofit hospital or a nursing home facility;

(4) projects that are located within a specifically delineated urban transit hub, as defined pursuant to section 2 of P.L.2007, c.346 (C.34:1B-208);

(5) projects that are located within an eligible municipality, as defined under section 2 of P.L.2007, c.346 (C.34:1B-208), when a majority of the project is located within a one-half mile radius of the midpoint of a platform area for a light rail system; and

(6) projects determined by the New Jersey Transit Corporation to be consistent with a transit village plan developed by a transit village designated by the Department of Transportation.

A developer of a non-residential development exempted from the non-residential development fee pursuant to this section shall be subject to it at such time the basis for the exemption set forth in this subsection no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development whichever is later.

For purposes of this subsection, "recreational facilities and community center" means any indoor or outdoor buildings, spaces, structures, or improvements intended for active or passive recreation, including but not limited to ball fields, meeting halls, and classrooms, accommodating either organized or informal activity; and "senior center" means any recreational facility or community center with activities and services oriented towards serving senior citizens.

If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the municipality as a lien against the real property of the owner.

c. (1) Unless authorized to pay directly to the municipality in which the non-residential construction is occurring in accordance with paragraph (2) of this subsection, developers shall pay non-residential development fees imposed pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) to the Treasurer, in accordance with subsection g. of this section in a manner and on such forms as required by the Treasurer, provided that a certified proof concerning the payment shall be furnished by the Treasurer, to the municipality.

(2) The department shall maintain on its Internet website a list of each municipality that is authorized to use the development fees collected pursuant to this section and that has a confirmed status of compliance with the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.) , or is in the process of seeking compliance certification, which compliance shall include a spending
plan [authorized by the council] pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) for all development fees collected.

(3) No later than 90 days following the enactment of P.L._____, c.____ (pending before the Legislature as this bill), any municipality that is or has been authorized to retain and expend non-residential development fees shall provide the department with a detailed accounting of all such fees that have been collected and expended since the inception of the municipal authorization to collect and retain said fees.

(4) Beginning with the year after the enactment of P.L._____, c.____ (pending before the Legislature as this bill), by January 15, every municipality that is or has been authorized to retain and expend non-residential development fees shall provide the department with a detailed accounting of all such fees that have been collected and expended previous year.

d. The payment of non-residential development fees required pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7) shall be made prior to the issuance of a certificate of occupancy for such development. A final certificate of occupancy shall not be issued for any non-residential development until such time as the fee imposed pursuant to this section has been paid by the developer. A non-residential developer may deposit with the appropriate entity the development fees as calculated by the municipality under protest, and the local code enforcement official shall thereafter issue the certificate of occupancy provided that the construction is otherwise eligible for a certificate of occupancy.

e. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which may be subject to a non-residential development fee. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the non-residential development. The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection on property which may be subject to a non-residential development fee. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the non-residential development in accordance with the regulations adopted by the Treasurer pursuant to P.L.1971, c.424 (C.54:1-35.35); calculate the non-residential development fee pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7); and thereafter notify the developer of the amount of the non-residential development fee. Should the municipality fail to determine or notify the developer of the amount of the non-residential development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with
the dispute process set forth in subsection b. of section 37 of P.L.2008, 
c.46 (C.40:55D-8.6). Upon tender of the estimated non-residential 
development fee, provided the developer is in full compliance with all 
other applicable laws, the municipality shall issue a final certificate of 
occupancy for the subject property. Failure of the municipality to 
comply with the timeframes or procedures set forth in this subsection 
may subject it to penalties to be imposed by the commissioner; any 
penalties so imposed shall be deposited into the "New Jersey 
Affordable Housing Trust Fund" established pursuant to section 20 of 
P.L.1985, c.222 as amended by section 17 of P.L.2008, c.46 
(C.52:27D-320).

A developer of a mixed use development shall be required to pay 
the Statewide non-residential development fee relating to the non- 
residential development component of a mixed use development 
subject to the provisions of P.L.2008, c.46 (C.52:27D-329.1 et al.).

Non-residential construction which is connected with the 
relocation of the facilities of a for-profit hospital shall be subject to the 
fee authorized to be imposed under this section to the extent of the 
increase in equalized assessed valuation in accordance with regulations 
to be promulgated by the Director of the Division of Taxation, 
Department of the Treasury.

f. Any municipality that is not in compliance with the 
requirements established pursuant to sections 32 through 38 of 
P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), or regulations of 
the [council] commissioner adopted thereto, may be subject to 
forfeiture of any or all funds remaining within its municipal 
development trust fund. Any funds so forfeited shall be deposited into 
the New Jersey Affordable Housing Trust Fund established pursuant to 
section 20 of P.L.1985, c.222 as amended by section 17 of P.L.2008, 
c.46 (C.52:27D-320).

g. The Treasurer shall credit to the "Urban Housing Assistance 
Fund," established pursuant to section 13 of P.L.2008, c.46 (C.52:27D- 
329.7) annually from the receipts of the fees authorized to be imposed 
pursuant to this section an amount equal to $20 million; all receipts in 
excess of this amount shall be deposited into the "New Jersey 
Affordable Housing Trust Fund," established pursuant to section 20 of 
P.L.1985, c.222 as amended by section 17 of P.L.2008, c.46 
(C.52:27D-320), to be used for the purposes of that fund.

The Treasurer shall adopt such regulations as necessary to 
effectuate sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 
through C.40:55D-8.7), in accordance with the "Administrative 
(cf: P.L.2008, c.46, s.35)

16. Section 36 of P.L.2008, c.46 (C.40:55D-8.5) is amended to 
read as follows:

36. a. The commissioner [ , in consultation with the council. ] 
shall promulgate, in accordance with the provisions of the
"Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such regulations as are necessary for the prompt and effective implementation of the provisions and purposes of P.L.2008, c.46 (C.52:27D-329.1 et al.) section 8 of P.L.2008, c.46 (C.52:27D-329.2), including, but not limited to, provisions for the payment of any necessary administrative costs related to the assessment of properties and collection of any development fees by a municipality.

b. Notwithstanding the authority granted to the commissioner herein, the council The commissioner shall adopt and promulgate, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such regulations as are necessary for the effectuation of P.L.2008, c.46 (C.52:27D-329.1 et al.), including but not limited to, regulations necessary for the establishment, implementation, review, monitoring, and enforcement of a municipal affordable housing trust fund and spending plan.

(cf: P.L.2008, c.46, s.36)

17. Section 38 of P.L.2008, c.46 (C.40:55D-8.7) is amended to read as follows:

38. a. Except as expressly provided in P.L.2008, c.46 (C.52:27D-329.1 et al.), including subsection b. of this section, any provision of a local ordinance which imposes a fee for the development of affordable housing upon a developer of non-residential property, including any and all development fee ordinances adopted in accordance with any regulations of the Council on Affordable Housing department, or any provision of an ordinance which imposes an obligation relating to the provision of housing affordable to low and moderate income households, or payment in-lieu of building as a condition of non-residential development, shall be void and of no effect. A provision of an ordinance which imposes a development fee which is not prohibited by any provision of P.L.2008, c.46 (C.52:27D-329.1 et al.) shall not be invalidated by this section.

b. No affordable housing obligation shall be imposed concerning a mixed use development that would result in an affordable housing obligation greater than that which would have been imposed if the residential portion of the mixed use development had been developed independently of the non-residential portion of the mixed use development.

c. Whenever the developer of a non-residential development regulated under P.L.1977, c.110 (C.5:12-1 et seq.) has made or committed itself to make a financial or other contribution relating to the provision of housing affordable to low and moderate income households, the non-residential development fee authorized pursuant to P.L.2008, c.46 (C.52:27D-329.1 et al.) shall be satisfied
18. Section 39 of P.L.2009, c.90 (C.40:55D-8.8) is amended to read as follows:

39. The provisions of this section shall apply only to those developments for which a fee was imposed pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), known as the "Statewide Non-residential Development Fee Act."

a. A developer of a property that received preliminary site plan approval, pursuant to section 34 of P.L.1975, c.291 (C.40:55D-46), or final approval, pursuant to section 38 of P.L.1975, c.291 (C.40:55D-50) prior to July 17, 2008 and that was subject to the payment of a nonresidential development fee prior to the enactment of P.L.2009, c.90 (C.52:27D-489a et al.), shall be entitled to a return of any moneys paid that represent the difference between moneys committed prior to July 17, 2008 and monies paid on or after that date.

b. A developer of a non-residential project that, prior to July 17, 2008, has been referred to a planning board by the State, a governing body, or other public agency for review pursuant to section 22 of P.L.1975, c.291 (C.40:55D-31) and that was subject to the payment of a nonresidential development fee prior to the enactment of P.L.2009, c.90 (C.52:27D-489a et al.), shall be entitled to a return of any moneys paid that represent the difference between moneys committed prior to July 17, 2008 and moneys paid on or after that date.

c. If moneys are required to be returned under subsection a., b. or d. of this section, a claim shall be submitted, in writing, to the same entity to which the moneys were paid, within 120 days of the effective date of P.L.2009, c.90 (C.52:27D-489a et al.). The entity to whom the funds were paid shall promptly review all requests for returns, and the fees paid shall be returned to the claimant within 30 days of receipt of the claim for return.

d. A developer of a non-residential project that paid a fee imposed pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), subsequent to July 17, 2008 but prior to the effective date of P.L.2009, c.90 (C.52:27D-489a et al.), shall be entitled to the return of those moneys paid, provided that the provisions of section 37 of P.L.2008, c.46 (C.40:55D-8.6), as amended by P.L.2009, c.90 do not permit the imposition of a fee upon the developer of that non-residential property.

e. Notwithstanding the provisions of subsections a., b., c., and d. of this section, if, on the effective date of P.L.2009, c.90 (C.52:27D-489a et al.), a municipality that has returned all or a portion of non-residential fees in accordance with subsection a. or b. of this section shall be reimbursed from the funds available
through the appropriation made into the "New Jersey Affordable Housing Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-320.1) within 30 days of the municipality providing written notice to the Council on Affordable Housing. [Deleted by amendment, P.L. , c. ] (pending before the Legislature as this bill)

f. A developer of a non-residential project that paid a fee imposed pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7), subsequent to June 30, 2010 but prior to the effective date of P.L.2011, c.122, shall be entitled to the return of those monies paid, provided that said monies have not already been expended by the municipality on affordable housing projects, and provided that the provisions of section 37 of P.L.2008, c.46 (C.40:55D-8.6), as amended by P.L.2011, c.122 do not permit the imposition of a fee upon the developer of that non-residential property. If moneys are eligible to be returned under this subsection, a claim shall be submitted, in writing, to the same entity to which the moneys were paid, within 120 days of the effective date of P.L.2011, c.122. The entity to whom the funds were paid shall promptly review all requests for returns, to ensure applicability of section 37 of P.L.2008, c.46 (C.40:55D-8.6) and the fees paid shall be returned to the claimant within 30 days of receipt of the claim for return.

(cf: P.L.2011, c.122, s.2)

19. Section 3 of P.L.1993, c.32 (C.40:55D-40.3) is amended to read as follows:

3. a. There is established in, but not of, the department a Site Improvement Advisory Board, to devise statewide site improvement standards pursuant to section 4 of [this act] P.L.1993, c.32 (C.40:55D-40.4). The board shall consist of the commissioner or [his] the commissioner’s designee, who shall be a non-voting member of the board, the Director of the Division of [Housing Codes and Standards in the Department of Community Affairs, who shall be a voting member of the board, the Executive Director of the New Jersey Housing and Mortgage Finance Agency, or the executive director’s designee, who shall be a voting member of the board, and [10] nine other voting members, to be appointed by the commissioner. The other members shall include two professional planners, one of whom serves as a planner for a governmental entity or whose professional experience is predominantly in the public sector and who has worked in the public sector for at least the previous five years and the other of whom serves as a planner in private practice and has particular expertise in private residential development and has been involved in private sector planning for at least the previous five years, and one representative each from:

(1) The New Jersey Society of Professional Engineers;
(2) The New Jersey Society of Municipal Engineers;
(3) The New Jersey Association of County Engineers;
(4) The New Jersey Federation of Planning Officials;
(5) [The Council on Affordable Housing] (Deleted by amendment, P.L. , c. (pending before the Legislature as this bill);
(6) The New Jersey Builders’ Association;
(7) The New Jersey Institute of Technology;
(8) The New Jersey State League of Municipalities.

b. Among the members to be appointed by the commissioner who are first appointed, four shall be appointed for terms of two years each, four shall be appointed for terms of three years each, and two shall be appointed for terms of four years each. Thereafter, each appointee shall serve for a term of four years. Vacancies in the membership shall be filled in the same manner as original appointments are made, for the unexpired term. The [commission] board shall select a chair from among its members [a chairman].

Members may be removed by the commissioner for cause.

c. Board members shall serve without compensation, but may be entitled to reimbursement, from moneys appropriated or otherwise made available for the purposes of this act, for expenses incurred in the performance of their duties.

(cf: P.L.1993, c.32, s.3)

20. Section 3 of P.L.1992, c.79 (C.40A:12A-3) is amended to read as follows:

3. As used in [this act] P.L.1992, c.79 (C.40A:12A-1 et seq.):

"Bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by a municipality, county, redevelopment entity, or housing authority pursuant to P.L.1992, c.79 (C.40A:12A-1 et al.).

"Comparable, affordable replacement housing” means newly-constructed or substantially rehabilitated housing to be offered to a household being displaced as a result of a redevelopment project, that is affordable to that household based on its income under the guidelines established by the [Council on Affordable Housing in the Department of Community Affairs] New Jersey Housing and Mortgage Finance Agency for maximum affordable sales prices or maximum fair market rents, and that is comparable to the household’s dwelling in the redevelopment area with respect to the size and amenities of the dwelling unit, the quality of the neighborhood, and the level of public services and facilities offered by the municipality in which the redevelopment area is located.

"Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use
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or change in the use of any building or other structure, or land or
extension of use of land, for which permission may be required
pursuant to the "Municipal Land Use Law." P.L.1975, c.291
(C.40:55D-1 et seq.).

"Electric vehicle charging station" means an electric component
assembly or cluster of component assemblies designed specifically
to charge batteries within electric vehicles by permitting the transfer
of electric energy to a battery or other storage device in an electric
vehicle.

"Governing body" means the body exercising general legislative
powers in a county or municipality according to the terms and
procedural requirements set forth in the form of government
adopted by the county or municipality.

"Housing authority" means a housing authority created or
continued pursuant to this act.

"Housing project" means a project, or distinct portion of a
project, which is designed and intended to provide decent, safe and
sanitary dwellings, apartments or other living accommodations for
persons of low and moderate income; such work or undertaking may include buildings, land, equipment,
facilities and other real or personal property for necessary,
convenient or desirable appurtenances, streets, sewers, water
service, parks, site preparation, gardening, administrative,
community, health, recreational, educational, welfare or other
purposes. The term "housing project" also may be applied to the
planning of the buildings and improvements, the acquisition of
property, the demolition of existing structures, the construction,
reconstruction, alteration and repair of the improvements and all
other work in connection therewith.

"Parking authority" means a public corporation created pursuant
to the "Parking Authority Law," P.L.1948, c.198 (C.40:11A-1 et
seq.), and authorized to exercise redevelopment powers within the
municipality.

"Persons of low and moderate income" means persons or families who are, in the case of State
assisted projects or programs, so defined by the New Jersey Housing and Mortgage Finance Agency,
or in the case of federally assisted projects or programs, defined as of "low and very low income" by the United
States Department of Housing and Urban Development.

"Public body" means the State or any county, municipality,
school district, authority or other political subdivision of the State.

"Public electric vehicle charging station" means an electric
vehicle charging station located at a publicly available parking
space.
"Public housing" means any housing for persons of low and moderate income owned by a municipality, county, the State or the federal government, or any agency or instrumentality thereof.

"Public hydrogen fueling station" means publicly available equipment to store and dispense hydrogen fuel to vehicles according to industry codes and standards.

"Publicly assisted housing" means privately owned housing which receives public assistance or subsidy, which may be grants or loans for construction, reconstruction, conservation, or rehabilitation of the housing, or receives operational or maintenance subsidies either directly or through rental subsidies to tenants, from a federal, State or local government agency or instrumentality.

"Publicly available parking space" means a parking space that is available to, and accessible by, the public and may include on-street parking spaces and parking spaces in surface lots or parking garages, but shall not include: a parking space that is part of, or associated with, a private residence; or a parking space that is reserved for the exclusive use of an individual driver or vehicle or for a group of drivers or vehicles, such as employees, tenants, visitors, residents of a common interest development, or residents of an adjacent building.

"Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise, and indebtedness secured by such liens.

"Redeveloper" means any person, firm, corporation or public body that shall enter into or propose to enter into a contract with a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project.

"Redevelopment" means clearance, replanning, development and redevelopment; the conservation and rehabilitation of any structure or improvement, the construction and provision for construction of residential, commercial, industrial, public or other structures and the grant or dedication of spaces as may be appropriate or necessary in the interest of the general welfare for streets, parks, playgrounds, or other public purposes, including recreational and other facilities incidental or appurtenant thereto, in accordance with a redevelopment plan.

"Redevelopment agency" means a redevelopment agency created pursuant to subsection a. of section 11 of P.L.1992, c.79 (C.40A:12A-11) or established heretofore pursuant to the "Redevelopment Agencies Law," P.L.1949, c.306 (C.40:55C-1 et
al.), repealed by this act, which has been permitted in accordance with the provisions of [this act] P.L.1992, c.79 (C.40A:12A-1 et seq.) to continue to exercise its redevelopment functions and powers.

"Redevelopment area" or "area in need of redevelopment" means an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and C.40A:12A-6) or determined heretofore to be a "blighted area" pursuant to P.L.1949, c.187 (C.40:55-21.1 et seq.) repealed by this act, both determinations as made pursuant to the authority of Article VIII, Section III, paragraph 1 of the Constitution. A redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part.

"Redevelopment entity" means a municipality or an entity authorized by the governing body of a municipality pursuant to subsection c. of section 4 of P.L.1992, c.79 (C.40A:12A-4) to implement redevelopment plans and carry out redevelopment projects in an area in need of redevelopment, or in an area in need of rehabilitation, or in both.

"Redevelopment plan" means a plan adopted by the governing body of a municipality for the redevelopment or rehabilitation of all or any part of a redevelopment area, or an area in need of rehabilitation, which plan shall be sufficiently complete to indicate its relationship to definite municipal objectives as to appropriate land uses, public transportation and utilities, recreational and municipal facilities, and other public improvements; and to indicate proposed land uses and building requirements in the redevelopment area or area in need of rehabilitation, or both.

"Redevelopment project" means any work or undertaking pursuant to a redevelopment plan; such undertaking may include any buildings, land, including demolition, clearance or removal of buildings from land, equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as but not limited to streets, sewers, utilities, parks, site preparation, landscaping, and administrative, community, health, recreational, educational, and welfare facilities, and zero-emission vehicle fueling and charging infrastructure.

"Rehabilitation" means an undertaking, by means of extensive repair, reconstruction or renovation of existing structures, with or without the introduction of new construction or the enlargement of existing structures, in any area that has been determined to be in need of rehabilitation or redevelopment, to eliminate substandard structural or housing conditions and arrest the deterioration of that area.
"Rehabilitation area" or "area in need of rehabilitation" means any area determined to be in need of rehabilitation pursuant to section 14 of P.L.1992, c.79 (C.40A:12A-14).

"Zero-emission vehicle" means a vehicle certified as a zero emission vehicle pursuant to the California Air Resources Board zero emission vehicle standards for the applicable model year, including but not limited to, battery electric-powered vehicles and hydrogen fuel cell vehicles.

"Zero-emission vehicle fueling and charging infrastructure" means infrastructure to charge or fuel zero-emission vehicles, including but not limited to, public electric vehicle charging stations and public hydrogen fueling stations.

(cf: P.L.2021, c.168, s.1)

21. Section 16 of P.L.1992, c.79 (C.40A:12A-16) is amended to read as follows:

16. a. In order to carry out the housing purposes of this act, a municipality, county, or housing authority may exercise the following powers, in addition to those set forth in section 22 of P.L.1992, c.79 (C.40A:12A-22):

(1) Plan, construct, own, and operate housing projects; maintain, reconstruct, improve, alter, or repair any housing project or any part thereof; and for these purposes, receive and accept from the State or federal government, or any other source, funds or other financial assistance;

(2) Lease or rent any dwelling house, accommodations, lands, buildings, structures or facilities embraced in any housing project; and pursuant to the provisions of this act, establish and revise the rents and charges therefor;

(3) Acquire property pursuant to subsection i. of section 22 of P.L.1992, c.79 (C.40A:12A-22);

(4) Acquire, by condemnation, any land or building which is necessary for the housing project, pursuant to the provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.);

(5) Issue bonds in accordance with the provisions of section 29 of P.L.1992, c.79 (C.40A:12A-29);

(6) Cooperate with any other municipality, private, county, State or federal entity to provide funds to the municipality or other governmental entity and to homeowners, tenant associations, nonprofit or private developers to acquire, construct, rehabilitate or operate publicly assisted housing, and to provide rent subsidies for persons of low and moderate income, including the elderly, pursuant to applicable State or federal programs;

(7) Encourage the use of demand side subsidy programs such as certificates and vouchers for low-income families and promote the use of project based certificates which provide subsidies for units in
newly constructed and substantially rehabilitated structures, and of
tenant based certificates which subsidize rent in existing units;
(8) Cooperate with any State or federal entity to secure
mortgage assistance for any person of [low or moderate income] low- or moderate-income;
(9) Provide technical assistance and support to nonprofit
organizations and private developers interested in constructing [low
and moderate income] low- and moderate-income housing;
(10) If it owns and operates public housing units, provide to the
tenants public safety services, including protection against
substance use disorder, and social services, including counseling
and financial management, in cooperation with other agencies;
(11) Provide emergency shelters, transitional housing and
supporting services to homeless families and individuals.
b. All housing projects, programs and actions undertaken
pursuant to this act shall accord with the housing element of the
master plan of the municipality within which undertaken, and with
any fair share housing plan [filed by] of the municipality [with the
Council on Affordable Housing, based upon the council's criteria
and guidelines], adopted pursuant to the "Fair Housing Act,"
P.L.1985, c.222 (C.52:27D-301 et al.) [, whether or not the
municipality has petitioned for substantive certification of the
plan].
(cf: P.L.2017, c.131, s.176)
22. Section 10 of P.L.1985, c.222 (C.52:27D-310) is amended to
read as follows:
10. A municipality's housing element shall be designed to achieve
the goal of access to affordable housing to meet present and
prospective housing needs, with particular attention to [low and
moderate income] low- and moderate-income housing, and shall
contain at least:
a. An inventory of the municipality's housing stock by age,
condition, purchase or rental value, occupancy characteristics, and
type, including the number of units affordable to [low and moderate
income] low- and moderate-income households and substandard
housing capable of being rehabilitated, and in conducting this
inventory the municipality shall have access, on a confidential basis
for the sole purpose of conducting the inventory, to all necessary
property tax assessment records and information in the assessor's
office, including but not limited to the property record cards;
b. A projection of the municipality's housing stock, including the
probable future construction of [low and moderate income] low- and
moderate-income housing, for the next ten years, taking into account,
but not necessarily limited to, construction permits issued, approvals
of applications for development and probable residential development
of lands;
c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;

d. An analysis of the existing and probable future employment characteristics of the municipality;

e. A determination of the municipality's present and prospective fair share for [low and moderate income] low- and moderate-income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for [low and moderate income] low- and moderate-income housing, as established pursuant to section 3 of P.L. 1995, c. 231 (C. 52:27D-310.1) (pending before the Legislature as this bill);

f. A consideration of the lands that are most appropriate for construction of [low and moderate income] low- and moderate-income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, [low and moderate income] low- and moderate-income housing, including a consideration of lands of developers who have expressed a commitment to provide [low and moderate income] low- and moderate-income housing;

g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L. 2021, c.273 (C.52:27D-329.20);

h. For a municipality located within the jurisdiction of the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), an analysis of compliance of the housing element with the Highlands Regional Master Plan of lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. This analysis shall include consideration of the municipality’s most recent Highlands Municipal Build Out Report, consideration of opportunities for redevelopment of existing developed lands into inclusionary or 100 percent affordable housing, or both, and opportunities for 100 percent affordable housing in both the Highlands Planning Area and Highlands Preservation Area that are consistent with the Highlands regional master plan; and

i. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

23. Section 1 of P.L.1995, c.231 (C.52:27D-310.1) is amended to read as follows:

1. Any municipality that receives an adjustment of its prospective need obligations for the fourth round or subsequent rounds based on a
lack of vacant land shall as part of the process of adopting and implementing its housing element and fair share plan identify sufficient parcels likely to redevelop during the current round of obligations to address at least 25 percent of the prospective need obligation that has been adjusted, and adopt realistic zoning that allows for such adjusted obligation, or demonstrate why the municipality is unable to do so. When computing a municipal adjustment regarding available land resources as part of the determination of a municipality's fair share of affordable housing, the [Council on Affordable Housing] municipality, in filing a housing element and fair share plan pursuant to subsection f. of section 3 of P.L. c. (C. and C. ) (pending before the Legislature as this bill), shall exclude from designating , and the process set forth pursuant to sections 3 and 4 of P.L. c. (C. and C. ) (pending before the Legislature as this bill) shall confirm was correctly excluded, as vacant land:

(a) any land that is owned by a local government entity that as of January 1, 1997, has adopted, prior to the institution of a lawsuit seeking a builder's remedy or prior to the filing of a petition for substantive certification of a housing element and fair share plan, a resolution authorizing an execution of agreement that the land be utilized for a public purpose other than housing;

(b) any land listed on a master plan of a municipality as being dedicated, by easement or otherwise, for purposes of conservation, park lands or open space and which is owned, leased, licensed, or in any manner operated by a county, municipality or tax-exempt nonprofit organization including a local board of education, or by more than one municipality by joint agreement pursuant to P.L.1964, c.185 (C.40:61-35.1 et seq.), for so long as the entity maintains such ownership, lease, license, or operational control of such land;

(c) any vacant contiguous parcels of land in private ownership of a size which would accommodate fewer than five housing units [if current standards of the council were applied] based on appropriate standards pertaining to housing density;

(d) historic and architecturally important sites listed on the State Register of Historic Places or National Register of Historic Places prior to the submission of the petition of substantive certification date of filing a housing element and fair share plan pursuant to section 3, or initiation of an action pursuant to section 4 of P.L. c. (C. or C. ) (pending before the Legislature as this bill);

(e) agricultural lands when the development rights to these lands have been purchased or restricted by covenant;

(f) sites designated for active recreation that are designated for recreational purposes in the municipal master plan; and

(g) environmentally sensitive lands where development is prohibited by any State or federal agency including, but not limited to, the Highlands Water Protection and Planning Council, established
pursuant to section 4 of P.L.2004, c.120 (C.13:20-4), for lands in the Highlands Preservation Area, and lands in the Highlands Planning Area for Highlands-conforming municipalities. No municipality shall be required to utilize for affordable housing purposes land that is excluded from being designated as vacant land. (cf: P.L.2008, c.46, s.39)

24. Section 11 of P.L.1985, c.222 (C.52:27D-311) is amended to read as follows:

11. a. In adopting its housing element, the municipality may provide for its fair share of low- and moderate-income housing by means of any technique or combination of techniques which provide a realistic opportunity for the provision of the fair share. The housing element shall contain an analysis demonstrating that it will provide such a realistic opportunity, and the municipality shall establish that its land use and other relevant ordinances have been revised to incorporate the provisions for low- and moderate-income housing. In preparing the housing element, the municipality shall consider the following techniques for providing low- and moderate-income housing within the municipality, as well as such other appropriate techniques as have been established through applicable precedent and may be employed by the municipality:

(1) Rezoning for densities necessary to assure the economic viability of any inclusionary developments, either through mandatory set-asides or density bonuses, as may be necessary to meet all or part of the municipality's fair share in accordance with the regulations of the council and the provisions of subsection h. of this section;

(2) Determination of the total residential zoning necessary to assure that the municipality's fair share is achieved;

(3) Determination of measures that the municipality will take to assure that low- and moderate-income units remain affordable to low- and moderate-income households for an appropriate period of not less than six years the period required by the regulations adopted by the Department of Community Affairs pursuant to section 21 of P.L.1985, c.222 (C.52:27D-321);

(4) A plan for infrastructure expansion and rehabilitation and conversion or redevelopment of unused or underutilized real property, including existing structures, if necessary to assure the achievement of the municipality's fair share of low- and moderate-income housing;

(5) Donation or use of municipally owned land or land condemned by the municipality for purposes of providing low- and moderate-income housing;
(6) Tax abatements for purposes of providing [low and moderate income] low- and moderate-income housing;

(7) Utilization of funds obtained from any State or federal subsidy toward the construction of [low and moderate income] low- and moderate-income housing;

(8) Utilization of municipally generated funds toward the construction of [low and moderate income] low- and moderate-income housing; and

(9) The purchase of privately owned real property used for residential purposes at the value of all liens secured by the property, excluding any tax liens, notwithstanding that the total amount of debt secured by liens exceeds the appraised value of the property, pursuant to regulations promulgated by the Commissioner of Community Affairs pursuant to subsection b. of section 41 of P.L.2000, c.126 (C.52:27D-311.2).

b. The municipality may provide for a phasing schedule for the achievement of its fair share of [low and moderate income] low- and moderate-income housing.

c. (Deleted by amendment, P.L.2008, c.46)

d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall require a municipality to raise or expend municipal revenues in order to provide [low and moderate income] low- and moderate-income housing.

e. When a municipality's housing element includes the provision of rental housing units in a community residence for the developmentally disabled, for the mentally ill, or for persons with head injuries, as those terms are defined in section 2 of P.L.1977, c.448 (C.30:11B-2), or in transitional housing, which will be affordable to persons of [low and moderate income] low- and moderate-income, and for which adequate measures to retain such affordability pursuant to paragraph (3) of subsection a. of this section are included in the housing element, those housing units shall be fully credited [as permitted under the rules of the council] towards the fulfillment of the municipality's fair share of [low and moderate income] low- and moderate-income housing. A municipality shall not credit transitional housing units towards more than 10 percent of the municipality's fair share obligation.

f. It having been determined by the Legislature that the provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is a public purpose, a municipality or municipalities may utilize public monies to make donations, grants or loans of public funds for the rehabilitation of deficient housing units and the provision of new or substantially rehabilitated housing for [low and moderate income] low- and moderate-income persons, providing that any private advantage is incidental.

g. A municipality [which] that has received [substantive certification from the council] approval of its housing element and fair
share plan for the current round, and [which] has actually effected
the construction of the affordable housing units it is obligated to
provide, may amend its affordable housing element or zoning
ordinances without [the approval of the council] losing immunity
from [builder’s remedy] exclusionary zoning [litigation].

h. Whenever affordable housing units are proposed to be provided
through an inclusionary development, a municipality shall provide,
through its zoning powers, incentives to the developer, which shall
include increased densities and reduced costs [in accordance with the
regulations of the council and this subsection].

i. [The council, upon the application of a] A municipality and a
developer [may] approve request a modification of a compliance
certification involving reduced affordable housing set-asides or
increased densities to ensure the economic feasibility of an
inclusionary development, if any such application demonstrates how
any shortfall in meeting the municipal fair share obligation will then
be addressed. Such a request may be granted only if the municipality
and developer have demonstrated that the project has been impacted
by market conditions beyond their reasonable control.

j. A municipality may enter into an agreement with a developer
or residential development owner to provide a preference for
affordable housing to [low and moderate income] low- and moderate-
income veterans who served in time of war or other emergency, as
defined in section 1 of P.L.1963, c.171 (C.54:4-8.10), of up to 50
percent of the affordable units in that particular project. This
preference shall be established in the applicant selection process for
available affordable units so that applicants who are veterans who
served in time of war or other emergency, as referenced in this
subsection, and who apply within 90 days of the initial marketing
period shall receive preference for the rental of the agreed-upon
percentage of affordable units. After the first 90 days of the initial
120-day marketing period, if any of those units subject to the
preference remain available, then applicants from the general public
shall be considered for occupancy. Following the initial 120-day
marketing period, previously qualified applicants and future qualified
applicants who are veterans who served in time of war or other
emergency, as referenced in this subsection, shall be placed on a
special waiting list as well as the general waiting list. The veterans on
the special waiting list shall be given preference for affordable units,
as the units become available, whenever the percentage of preference-
occupied units falls below the agreed-upon percentage. Any
agreement to provide affordable housing preferences for veterans
pursuant to this subsection shall not affect a municipality’s ability to
receive credit for the unit [from the council, or its successor].

k. In the fourth round, and in subsequent rounds of affordable
housing obligations, a municipality shall be able to receive one credit
against its affordable housing obligation for each unit of low- or
moderate-income housing, and shall not receive bonus credit for any particular type of low- or moderate-income housing, unless authority to obtain bonus credit is expressly provided pursuant to this section, or other sections of the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.). A municipality shall not receive more than one type of bonus credit for any unit, and a municipality shall not be permitted to satisfy more than 25 percent of its prospective need obligation in the fourth round or any subsequent round through the use of bonus credits. This subsection shall not be construed to limit the ability of a municipality to receive a unit of credit for a low- or moderate-income housing unit that is subject to affordability controls that are scheduled to expire, but are extended in accordance with the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency pursuant to section 21 of P.L.1985, c.222 (C.52:27D-321), to the extent that this affordability control extension would otherwise generate this credit. As a part of a fair share plan and housing element adopted pursuant to subsection f. of section 3 of P.L. , c. (pending before the Legislature as this bill), a municipality shall:

(1) receive one unit of credit and one bonus credit for each unit of low- or moderate-income housing for individuals with special needs or permanent supportive housing, as those terms are defined in section 2 of P.L. 2004, c.70 (C.34:1B-21.24);

(2) receive one unit of credit and one-half bonus credit for each low- or moderate-income ownership unit created in partnership sponsorship with a non-profit housing developer;

(3) receive one unit of credit and one-half bonus credit for each unit of low- or moderate-income housing located within a one-half mile radius, or one-mile radius for projects located in a Garden State Growth Zone, as defined in section 2 of P.L.2011, c.149 (C.34:1B-243), surrounding a New Jersey Transit Corporation, Port Authority Transit Corporation, or Port Authority Trans-Hudson Corporation rail, bus, or ferry station, including all light rail stations. For the purpose of this subparagraph, the distance from the bus, rail, or ferry station to a housing unit shall be measured from the closest point on the outer perimeter of the station, including any associated park-and-ride lot, to the closest point of the housing project property;

(4) receive one unit of credit and one-half bonus credit for a unit of age-restricted housing, provided that a bonus credit for age-restricted housing shall not be applied to more than 15 percent of the units of age-restricted housing constructed in compliance with the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency in a municipality that count towards the municipality’s affordable housing obligation for any single 10-year round of affordable housing obligations;

(5) receive one unit of credit and one-half bonus credit for each unit of low- or moderate-income family housing with at least three bedrooms above the minimum number required by the bedroom
distribution in a given development. This bonus credit shall be calculated by taking into account the full municipal fair share plan and housing element, and the number of units with at least three bedrooms required for projects satisfying the minimum 50 percent family housing requirements. A municipality shall receive the bonus credit pursuant to this paragraph for each unit with at least three bedrooms that are above the minimum number required for the bedroom distribution determined pursuant to the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency.

(6) receive one unit of credit and one-half bonus credit for a unit of low- or moderate-income housing constructed on land that is or was previously developed and utilized for retail, office, or commercial space;

(7) receive one unit of credit and one-half bonus credit for each existing low- or moderate-income rental housing unit for which affordability controls are extended for a new term of affordability, in compliance with the Uniform Housing Affordability Controls promulgated by the New Jersey Housing and Mortgage Finance Agency, and the municipality contributes funding towards the costs necessary for this preservation;

(8) receive one unit of credit and one-half bonus credit for each unit of low- or moderate-income housing in a 100 percent affordable housing project toward which the municipality either contributes property without which the project would not be feasible, or makes contributions from the municipal affordable housing trust fund that cover no less than 10 percent of the project cost; and

(9) receive one unit of credit and one-half bonus credit for each unit of very low-income housing for families above the 13 percent of units required to be reserved for very low-income housing pursuant to section 7 of P.L.2008, c.46 (C.52:27D-329.1). In accordance with section 7 of P.L.2008, c.46 (C.52:27D-329.1), a municipality shall not be required to provide that a specific percentage of the units in any specific project be reserved as very low-income housing in order to obtain this bonus credit, and the 13 percent level, for the purpose of bonus credits, shall be calculated against the full prospective need obligation provided pursuant to the fair share plan; and

(10) receive one unit of credit and one bonus credit for each unit of low- or moderate-income housing created by transforming an existing rental or ownership unit from a market rate unit to an affordable housing unit. A municipality may only rely on this bonus
credit as part of its fair share plan and housing element if the
municipality demonstrates that a commitment to follow through with
this market to affordable agreement has been made and: (a) this
agreement has been signed by the property owner; or (b) the
municipality has obtained ownership of the property. ¹

1. A municipality may not satisfy more than ³⁰ percent of
the affordable housing units, exclusive of any bonus credits, to address
its prospective need affordable housing obligation through the creation
of age-restricted housing. A municipality shall satisfy a minimum of
50 percent of the actual affordable housing units, exclusive of any
bonus credits, created to address its prospective need affordable
housing obligation through the creation of housing available to
families with children and otherwise in compliance with the
requirements and controls established pursuant to section 21 of
minimum of 25 percent of the actual affordable housing units,
exclusive of any bonus credits, to address its prospective need
affordable housing obligation, through rental housing, including at
least half of that number available to families with children. All units
referred to in this section shall otherwise be in compliance with the
requirements and controls established pursuant to section 21 of

m. All parties shall be entitled to rely upon reg
ulations on
municipal credits, adjustments, and compliance mechanisms adopted
by the Council on Affordable Housing unless those regulations are
contradicted by statute, including but not limited to P.L. , c.
(C. ) (pending before the Legislature as this bill), or binding court
decisions.

n. P.L. , c. (C. ) (pending before the Legislature as this
bill) shall not be construed to require a municipality to fund
infrastructure improvements for affordable housing projects beyond
any commitments made in a fair share plan and housing element that
has been provided with compliance certification. A municipality may
fund infrastructure improvements for affordable housing projects,
through the adoption of a development agreement with the applicant,
beyond any commitments made in a fair share plan and housing
element that has been provided with compliance certification. ²
(cf: P.L.2013, c.6, s.1)

25. Section 6 of P.L.2005, c.350 (C.52:27D-311b) is amended to
read as follows:

6. The council A municipality may take such measures as are
necessary to assure compliance with the adaptability requirements
imposed pursuant to P.L.2005, c.350 (C.52:27D-311a et al.), including
the inspection of those units which are newly constructed and receive
housing credit as provided under section 1 of P.L.2005, c.350
(C.52:27D-311a) for adaptability, as part of the monitoring which
occurs pursuant to P.L.1985, c.222 (C.52:27D-301 et al.). No housing
unit subject to the provisions of section 5 of P.L.2005, c.350
(C.52:27D-123.15) and to the provisions of the barrier free subcode
adopted by the Commissioner of Community Affairs pursuant to the
"State Uniform Construction Code Act." P.L.1975, c.217 (C.52:27D-
119 et seq.) shall be eligible for inclusion in a municipal fair share plan
unless the unit complies with the requirements set forth thereunder. If
any units for which credit was granted in accordance with the
provisions of P.L.2005, c.350 (C.52:27D-311a et al.) are found not to
come to the requirements of P.L.2005, c.350 (C.52:27D-311a et
al.), [the council may] any party representing the interests of
households with disabilities may seek a modification to the approval of
the municipal fair share plan to require the municipality to amend its
fair share plan within 90 days of [receiving notice from the council]
such a finding, to address its fair share obligation pursuant to
P.L.1985, c.222 (C.52:27D-301 et al.). In the event that the
municipality fails to amend its fair share plan within 90 days of
[receiving such notice, the council may revoke substantive
certification] such a finding, the municipality shall lose immunity to
[a builder’s remedy] exclusionary zoning litigation1 for the portion
of its obligation that is found not to conform to the requirements of
(cf: P.L.2005, c.350, s.6)

26. Section 20 of P.L.1985, c.222 (C.52:27D-320) is amended to
read as follows:

20. There is established in the Department of Community
Affairs a separate trust fund, to be used for the exclusive purposes
as provided in this section, and which shall be known as the "New
Jersey Affordable Housing Trust Fund." The fund shall be a non-
lapsing, revolving trust fund, and all monies deposited or received
for purposes of the fund shall be accounted for separately, by source
and amount, and remain in the fund until appropriated for such
purposes. The fund shall be the repository of all State funds
appropriated for affordable housing purposes, including, but not
limited to, the proceeds from the receipts of the additional fee
collected pursuant to paragraph (2) of subsection a. of section 3 of
P.L.1968, c.49 (C.46:15-7), proceeds from available receipts of the
Statewide non-residential development fees collected pursuant to
section 35 of P.L.2008, c.46 (C.40:55D-8.4), monies lapsing or
reverting from municipal development trust funds, or other monies
as may be dedicated, earmarked, or appropriated by the Legislature
for the purposes of the fund. All references in any law, order, rule,
regulation, contract, loan, document, or otherwise, to the
"Neighborhood Preservation Nonlapsing Revolving Fund" shall
mean the "New Jersey Affordable Housing Trust Fund." The
department shall be permitted to utilize annually up to 7.5 percent
of the monies available in the fund for the payment of any
necessary administrative costs related to the administration of the
"Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), or any
costs related to administration of P.L.2008, c.46 (C.52:27D-329.1 et
al.).

a. Except as permitted pursuant to subsection g. of this section,
and by section 41 of P.L.2009, c.90 (C.52:27D-320.1), the
commissioner shall award grants or loans from this fund for
housing projects and programs in municipalities whose housing
elements have received substantive certification from the council."

obtained compliance certification pursuant to section 3 of P.L.    , c.
(C.      ) (pending before the Legislature as this bill), or in
municipalities receiving State aid pursuant to P.L.1978, c.14
(C.52:27D-178 et seq.) in municipalities subject to a builder's
remedy as defined in section 28 of P.L.1985, c.222 (C.52:27D-328),
or in receiving municipalities in cases where the council has
approved a regional contribution agreement and a project plan
developed by the receiving municipality].

Of those monies deposited into the "New Jersey Affordable
Housing Trust Fund" that are derived from municipal development
fee trust funds, or from available collections of Statewide non-
residential development fees, a priority for funding shall be
established for projects in municipalities that have petitioned the
council for substantive received compliance certification.

Programs and projects in any municipality shall be funded only
after receipt by the commissioner of a written statement in support
of the program or project from the municipal governing body.

b. The commissioner shall establish rules and regulations
governing the qualifications of applicants, the application
procedures, and the criteria for awarding grants and loans and the
standards for establishing the amount, terms, and conditions of each
grant or loan.

c. For any period which the commissioner may
approve, the commissioner may assist affordable housing programs
which located in municipalities whose housing
elements have been granted substantive certification or which are
not in furtherance of a regional contribution agreement that have a
pending request for compliance certification; provided that the
affordable housing program will meet all or part of a municipal
low and moderate income low- and moderate-income housing
obligation.

d. Amounts deposited in the "New Jersey Affordable Housing
Trust Fund" shall be targeted to regions based on the region's
percentage of the State's low and moderate income low- and
moderate-income housing need as determined by the council
pursuant to the low- and moderate-income household growth over
the prior 10 years, as calculated pursuant to section 6 of P.L.    , c.
Amounts in the fund shall be applied for the following purposes in designated neighborhoods:

1. Rehabilitation of substandard housing units occupied or to be occupied by [low and moderate income] low- and moderate-income households;

2. Creation of accessory [apartments] dwelling units to be occupied by [low and moderate income] low- and moderate-income households;

3. Conversion of non-residential space to residential purposes; provided a substantial percentage of the resulting housing units are to be occupied by [low and moderate income] low- and moderate-income households;

4. Acquisition of real property, demolition and removal of buildings, or construction of new housing that will be occupied by [low and moderate income] low- and moderate-income households, or any combination thereof;

5. Grants of assistance to eligible municipalities for costs of necessary studies, surveys, plans, and permits; engineering, architectural, and other technical services; costs of land acquisition and any buildings thereon; and costs of site preparation, demolition, and infrastructure development for projects undertaken pursuant to an approved regional contribution agreement;

6. Assistance to a local housing authority, nonprofit or limited dividend housing corporation, or association or a qualified entity acting as a receiver under P.L.2003, c.295 (C.2A:42-114 et al.) for rehabilitation or restoration of housing units which it administers which: (a) are unusable or in a serious state of disrepair; (b) can be restored in an economically feasible and sound manner; and (c) can be retained in a safe, decent, and sanitary manner, upon completion of rehabilitation or restoration; and

7. Other housing programs for [low and moderate income] low- and moderate-income housing, including, without limitation, (a) infrastructure projects directly facilitating the construction of [low and moderate income] low- and moderate-income housing not to exceed a reasonable percentage of the construction costs of the [low and moderate income] low- and moderate-income housing to be provided and (b) alteration of dwelling units occupied or to be occupied by households of [low or moderate income] low- or moderate-income and the common areas of the premises in which they are located in order to make them accessible to persons with disabilities.

e. Any grant or loan agreement entered into pursuant to this section shall incorporate contractual guarantees and procedures by which the division [will] shall ensure that any unit of housing provided for [low and moderate income] low- and moderate-income households shall continue to be occupied by [low and
moderate income] low- and moderate-income households for [at least 20 years] a period that conforms to the requirements of subsection f. of section 21 of P.L.1985, c.222 (C.52:27D-321) following the award of the loan or grant, except that the division may approve a guarantee for a period of less [than 20 years] duration where necessary to ensure project feasibility.

f. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, in making grants or loans under this section, the department shall not require that tenants be certified as [low or moderate income] low- or moderate-income or that contractual guarantees or deed restrictions be in place to ensure continued [low and moderate income] low- and moderate-income occupancy as a condition of providing housing assistance from any program administered by the department, when that assistance is provided for a project of moderate rehabilitation if the project: (1) contains 30 or fewer rental units; and (2) is located in a census tract in which the median household income is 60 percent or less of the median income for the housing region in which the census tract is located, as determined for a three person household by the [council] department in accordance with the latest federal decennial census. A list of eligible census tracts shall be maintained by the department and shall be adjusted upon publication of median income figures by census tract after each federal decennial census.

g. In addition to other grants or loans awarded pursuant to this section, and without regard to any limitations on such grants or loans for any other purposes herein imposed, the commissioner shall annually allocate such amounts as may be necessary in the commissioner's discretion, and in accordance with section 3 of P.L.2004, c.140 (C.52:27D-287.3), to fund rental assistance grants under the program created pursuant to P.L.2004, c.140 (C.52:27D-287.1 et al.). Such rental assistance grants shall be deemed necessary and authorized pursuant to P.L.1985, c.222 (C.52:27D-301 et al.), in order to meet the housing needs of certain [low income] low-income households who may not be eligible to occupy other housing produced pursuant to P.L.1985, c.222 (C.52:27D-301 et al.).

h. The department and the State Treasurer shall submit the "New Jersey Affordable Housing Trust Fund" for an audit annually by the State Auditor or State Comptroller, at the discretion of the Treasurer. In addition, the department shall prepare an annual report for each fiscal year, and submit it by November 30th of each year to the Governor and the Legislature, and the Joint Committee on Housing Affordability, or its successor, and post the information to its [web site] Internet website, of all activity of the fund, including details of the grants and loans by number of units, number and income ranges of recipients of grants or loans, location of the
housing renovated or constructed using monies from the fund, the number of units upon which affordability controls were placed, and the length of those controls. The report also shall include details pertaining to those monies allocated from the fund for use by the State rental assistance program pursuant to section 3 of P.L.2004, c.140 (C.52:27D-287.3) and subsection g. of this section.

i. The commissioner may award or grant the amount of any appropriation deposited in the "New Jersey Affordable Housing Trust Fund" pursuant to section 41 of P.L.2009, c.90 (C.52:27D-320.1) to municipalities pursuant to the provisions of section 39 of P.L.2009, c.90 (C.40:55D-8.8).

(cf: P.L.2017, c.131, s.200)

27. Section 21 of P.L.1985, c.222 (C.52:27D-321) is amended to read as follows:

21. The agency shall establish affordable housing programs to assist municipalities in meeting the obligation of developing communities to provide [low and moderate income] low- and moderate-income housing.

a. Of the bond authority allocated to it under section 24 of P.L.1983, c.530 (C.55:14K-24) the agency will allocate, for a reasonable period of time established by its board, no less than [25%] 25 percent to be used in conjunction with housing to be constructed or rehabilitated with assistance under [this act] P.L.1985, c.222 (C.52:27D-301 et al.).

b. The agency shall to the extent of available funds, award assistance to affordable housing programs located in municipalities whose housing elements have [received substantive] obtained compliance certification [from the council], or which have been subject to a builder's remedy [or which are in furtherance of a regional contribution agreement approved by the council]. During [the first 12 months from the effective date of this act and for] any [additional] period which the [council] agency may approve, the agency may assist affordable housing programs [which are not located in municipalities whose housing elements have been granted substantive certification or which are not in furtherance of a regional contribution agreement] that have a pending request for compliance certification; provided the affordable housing program will meet all or in part a municipal [low and moderate income] low- and moderate-income housing obligation.

c. Assistance provided pursuant to this section may take the form of grants or awards to municipalities, prospective home purchasers, housing sponsors as defined in P.L.1983, c.530 (C.55:14K-1 et seq.), or as contributions to the issuance of mortgage revenue bonds or multi-family housing development bonds which have the effect of achieving the goal of producing affordable housing.
d. Affordable housing programs which may be financed or assisted under this provision may include, but are not limited to:

(1) Assistance for home purchase and improvement including interest rate assistance, down payment and closing cost assistance, and direct grants for principal reduction;

(2) Rental programs including loans or grants for developments containing low and moderate income low- and moderate-income housing, moderate rehabilitation of existing rental housing, congregate care and retirement facilities;

(3) Financial assistance for the conversion of nonresidential space to residences;

(4) Other housing programs for low- and moderate-income housing, including infrastructure projects directly facilitating the construction of low and moderate income low- and moderate-income housing; and

(5) Grants or loans to municipalities, housing sponsors and community organizations to encourage development of innovative approaches to affordable housing, including:

(a) Such advisory, consultative, training and educational services as will assist in the planning, construction, rehabilitation and operation of housing; and

(b) Encouraging research in and demonstration projects to develop new and better techniques and methods for increasing the supply, types and financing of housing and housing projects in the State.

e. The agency shall establish procedures and guidelines governing the qualifications of applicants, the application procedures and the criteria for awarding grants and loans for affordable housing programs and the standards for establishing the amount, terms and conditions of each grant or loan.

f. [In consultation with the council, the] The agency, in consultation with the department, shall establish requirements and controls to ensure the maintenance of housing assisted under P.L.1985, c.222 (C.52:27D-301 et al.) as affordable to low and moderate income low- and moderate-income households for a period of not less than 40 years for newly created rental units and 20 years for for-sale units, except for housing units for which affordability controls are extended for a new term of affordability; provided that the agency may establish a shorter period upon a determination that the economic feasibility of the program is jeopardized by the requirement and the public purpose served by the program outweighs the shorter period and 30 years for housing units for which affordability controls are extended for a new term of affordability, provided that the minimum extension term may be limited to no less than 20 years as long as the original and extended term, in combination, total at least 60 years. Any 100 percent affordable rental property shall have a right to extinguish a deed restriction regardless of original length, beginning 30 years following
the start of the deed restriction, provided a refinancing or rehabilitation, or both, for the purpose of preservation is commenced and that a new deed restriction of at least 30 years is provided. A municipality shall be eligible to receive credits for all preserved units pursuant to this subsection, as long as the original and extended term total at least 60 years, and this credit may be obtained at the time of preservation. All 100 percent affordable projects shall be eligible for any affordable housing preservation program administered by the State, beginning 30 years following the start of the deed restriction, regardless of original length of the deed restriction. Any State administered preservation program may allow a refinancing funding process to commence prior to the 30th year of the deed restriction when such refinancing or rehabilitation funding is needed to preserve affordable housing. The agency may update or amend any controls previously adopted by the agency, in consultation with the Council on Affordable Housing, prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), provided that the requirements and controls shall, at a minimum, be consistent with the controls as in effect immediately prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), including, but not limited to, any requirements concerning bedroom distributions, affordability averages, and affirmative marketing. For the purpose of housing units for which affordability controls are extended for a new term of affordability: (1) a 20-year minimum deed restriction shall be required if the unit was initially created before October 1, 2001; and (2) a 30-year minimum deed restriction shall be required if the unit was initially created on or following October 1, 2001. The controls may include, among others, requirements for recapture of assistance provided pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) or restrictions on return on equity in the event of failure to meet the requirements of the program. With respect to rental housing financed by the agency pursuant to P.L.1985, c.222 (C.52:27D-301 et al.) or otherwise which promotes the provision or maintenance of low and moderate income housing, the agency may waive restrictions on return on equity required pursuant to P.L.1983, c.530 (C.55:14K-1 et seq.) which is gained through the sale of the property or of any interest in the property or sale of any interest in the housing sponsor. The agency shall promulgate updated regulations no later than nine months following the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill). All parties may continue to rely on regulations previously adopted by the agency pursuant to the authority provided by this section as in effect immediately prior to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill) until new rules and regulations are adopted by the agency. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the agency, after consultation with department,
may adopt, immediately, upon filing with the Office of Administrative Law, said regulations, which shall be effective for a period not to exceed one year from the date of the filing. The agency shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

g. The agency may establish affordable housing programs through the use or establishment of subsidiary corporations or development corporations as provided in P.L.1983, c.530 (C.55:14K-1 et seq.). The subsidiary corporations or development corporations shall be eligible to receive funds provided under [this act] P.L.1985, c.222 (C.52:27D-301 et al.) for any permitted purpose.

h. The agency shall provide assistance, through its bonding powers or in any other manner within its powers, to the grant and loan program established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320).

i. (1) The department shall promulgate processes and standards for the certification of administrative agents and municipal housing liaisons in the State, as well as standards for measuring performance of and enforcing compliance by administrative agents and municipal housing liaisons in implementing the affordable housing requirements and controls established pursuant to subsection f. of this section.

(2) Administrative agents shall be responsible for implementing the requirements and controls set by the regulations promulgated pursuant to subsection f. of this section. The department may bring via summary proceeding any findings of violation of the responsibilities set forth in this section before a county level housing judge, to docket the violation and issue corrective orders and levy fines.

(3) Municipal housing liaisons shall be responsible for monitoring administrative agents within their municipality’s jurisdiction to ensure compliance with the requirements and controls set by regulation under subsection f. of this section.

(4) Municipal housing liaisons, the department, and interested parties may bring a challenge before a county level housing judge to determine whether properties subject to the regulations set forth by this section are out of compliance with the regulations. A finding of deliberate noncompliance may result in the department removing the administrative agent’s certification.

(5) A County level housing judge may issue fines and order corrective actions for violations and may consider patterns of violations in determining whether a municipality is meeting its obligations under the compliance certification established by section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill).

(6) Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the department may adopt, immediately, upon filing with the Office of Administrative Law, regulations to implement the provisions of this subsection, which shall be effective for a period not to exceed one year.
from the date of the filing. The department shall thereafter amend, adopt, or readopt the regulations in accordance with the requirements of P.L.1968, c.410 (C.52:14B-1 et seq.), (cf: P.L.2004, c.140, s.5)

28. Section 19 of P.L.2008, c.46 (C.52:27D-321.1) is amended to read as follows:

19. Notwithstanding any rules of the New Jersey Housing and Mortgage Finance Agency to the contrary, the allocation of [low income] low-income tax credits shall be made by the agency to the full extent such credits are permitted to be allocated under federal law, including allocations of [4] four percent or [9] nine percent federal [low income] low-income tax credits, and including allocations allowable for partial credits. The affordable portion of any mixed income or mixed use development that is part of a fair share housing plan [approved by the council, or] that has obtained compliance certification, including a court-approved judgment of repose or compliance, including, but not limited to, a development that has received a density bonus, shall be permitted to receive allocations of [low income] low-income tax credits, provided that the applicant can conclusively demonstrate that the market rate residential or commercial units are unable to internally subsidize the affordable units, and the affordable units are developed contemporaneously with the commercial or market rate residential units.

(cf: P.L.2008, c.46, s.19)

29. Section 7 of P.L.2008, c.46 (C.52:27D-329.1) is amended to read as follows:

7. [The council shall coordinate and review the housing elements as filed pursuant to section 11 of P.L.1985, c.222 (C.52:27D-311), and the housing activities under section 20 of P.L.1985, c.222 (C.52:27D-320), at least once every three years, to] Housing elements and fair share plans adopted pursuant to section 3 of P.L. [ , c. (C. ) (pending before the Legislature as this bill)] shall ensure that at least 13 percent of the housing units made available for occupancy by low-income and [moderate income] moderate-income households to address a municipality’s prospective need obligation will be reserved for occupancy by very low income households, as that term is defined pursuant to section 4 of P.L.1985, c.222 (C.52:27D-304), with at least half of such units made available for families with children. The 13 percent shall count towards the minimum 50 percent of the housing units required to be made available for occupancy by low-income households to address a municipality’s prospective need obligation. Nothing in this section shall require that a specific percentage of the units in any specific project be reserved as very [low income] low-
income housing; provided, however, that a municipality shall not receive bonus credits for the provision of housing units reserved for occupancy by very low income households unless the 13 percent target has been exceeded within that municipality. The council shall coordinate all efforts to meet the goal of this section in a manner that will result in a balanced number of housing units being reserved for very low income households throughout all housing regions. For the purposes of this section, housing activities under section 20 of P.L.1985, c.222 (C.52:27D-320) shall include any project-based assistance provided from the "New Jersey Affordable Housing Trust Fund" pursuant to P.L.2004, c.140 (C.52:27D-287.1 et al.), regardless of whether the housing activity is counted toward the municipal obligation under the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), and that the agency shall update the regulations adopted pursuant to section 21 of P.L.1985, c.222 (C.52:27D-321) to replace any requirements for very low-income housing inconsistent with the percentages and definitions established pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill) with the percentage and definition specified in this section.

(cf: P.L.2008, c.46, s.7)

30. Section 8 of P.L.2008, c.46 (C.52:27D-329.2) is amended to read as follows:

8. a. [[The council may authorize a] (1) A municipality that is in the process of seeking compliance certification, has [petitioned for substantive] obtained compliance certification,  is a qualified urban aid municipality, as determined pursuant to paragraph (1) of subsection c. of section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill), or that has been so authorized by a court of competent jurisdiction, and which has adopted a municipal development fee ordinance shall be authorized to impose and collect development fees from developers of residential property, in accordance with rules promulgated by the [council] department. Each amount collected shall be deposited and shall be accounted for separately, by payer and date of deposit.

(2) No later than 90 days following the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), any municipality that is or has been authorized to impose and collect development fees from developers of residential property, or payments in lieu of constructing affordable housing, shall provide the Department of Community Affairs with a detailed accounting of all such fees that have been collected and expended since the inception of the municipal authorization to collect the fees.

(3) Beginning with the year after the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), by
authorized to impose and collect development fees from developers of residential property, or payments in lieu of constructing affordable housing, shall provide the Department of Community Affairs with a detailed accounting of all such fees that have been collected and expended the previous year.

(4) A municipality may not spend or commit to spend any affordable housing development fees, including Statewide non-residential fees collected and deposited into the municipal affordable housing trust fund, without first obtaining the [council’s] approval of the expenditure as part of its compliance certification or by the department. A municipality shall include in its housing element and fair share plan adopted pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) a spending plan for current funds in the municipal affordable housing trust fund and projected funds through the current round. Review of that spending plan for consistency with applicable law and the municipality’s Housing Element and Fair Share Plan shall be part of the process specified in section 3 of P.L. , c. (C.) (pending before the Legislature as this bill). The [council] department shall promulgate updated regulations no later than nine months following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill) regarding the establishment, administration, reporting, and enforcement of the expenditure of affordable housing development fees by municipalities, which shall include establishing an expedited process for approving spending plan expenditures for emergent opportunities to create affordable housing after a municipality has obtained compliance certification and procedures for monitoring the collection and expenditure of trust funds. The department shall develop and publish on the department’s Internet website a detailed summary of the municipal affordable housing trust fund expenditures for each municipality, and shall update each summary on an annual basis. As part of the regulations adopted pursuant to this section and section 10 of P.L.2008, c.46 (C.52:27D-329.4), the department shall adopt reporting requirements applicable to municipal affordable housing trust funds to facilitate fulfillment of the department’s obligations pursuant to this section. Municipalities may continue to rely on regulations on development fees and spending plans previously adopted by the council until new rules and regulations are adopted by the department. The [council] department shall have [exclusive] jurisdiction regarding the enforcement of these regulations, provided that any municipality which is not in compliance with the regulations adopted by the [council] department may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the “New Jersey Affordable Housing Trust Fund” established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320).

b. A municipality shall deposit all fees collected, whether or not such collections were derived from fees imposed upon non-residential
or residential construction into a trust fund dedicated to those purposes as required under this section, and such additional purposes as may be approved by the [council] department.

c. (1) A municipality other than a qualified urban aid municipality, as determined pursuant to paragraph (1) of subsection c. of section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill) may only spend development fees for an activity approved by the [council] department to address the municipal fair share obligation, or approved as part of compliance certification.

(2) Municipal development trust funds shall not be expended unless the municipality has immunity from exclusionary zoning litigation at the time of the expenditure, and, or said municipality has previously collected such funds while under the protection of presumptive validity or immunity from exclusionary zoning litigation and in accordance with an approved spending plan. However, municipal development trust funds may be expended by a municipality if the municipality is a qualified urban aid municipality, as determined pursuant to paragraph (1) of subsection c. of section 7 of P.L. , c. (C. ) (pending before the Legislature as this bill), with a development fee ordinance and spending plan approved by the department or a court of competent jurisdiction, regardless of whether this approval occurs prior to or subsequent to the effective date of P.L. , c. (C. ) (pending before the Legislature as this bill). Municipal development fee trust funds shall not be expended:

(a) to reimburse municipalities for activities which occurred prior to the authorization of a municipality to collect development fees; or

(b) (i) on administrative costs, attorney fees or court costs to obtain a judgment of repose; (ii) to contest a determination of the municipality’s fair share obligation; or (iii) on costs of any challenger in connection to a challenge to the municipality’s obligation, housing element, or fair share plan.

(3) A municipality shall set aside a portion of its development fee trust fund for the purpose of providing affordability assistance to low and moderate income households in affordable units included in a municipal fair share plan, in accordance with rules of the [council] department.

(a) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, common maintenance expenses for units located in condominiums, rental assistance, and any other program authorized by the [council] department.

(b) Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low-income units in a municipal fair share plan to make them affordable to households earning 30 percent or less of median income. The use of development fees in this manner shall not entitle a
municipality to bonus credits except as may [be provided by the rules of the council] otherwise be allowed by applicable precedent.

(4) A municipality may contract with a private or public entity to administer any part of its housing element and fair share plan, including the requirement for affordability assistance, or any program or activity for which the municipality expends development fee proceeds, in accordance with rules of the [council] department.

(5) Not more than 20 percent of the revenues collected from development fees shall be expended on administration, in accordance with rules of the [council] department. Such administration may include expending a portion of its affordable housing trust fund on actions and efforts reasonably related to the determination of its fair share obligation and the development of its housing element and fair share plan pursuant to paragraphs (1) and (2) of subsection f. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), and for expenses that are reasonably necessary for compliance with the processes of the program, including but not limited to, the costs to the municipality of resolving a challenge under the program.

d. The [council] department shall establish a time by which all development fees collected within a calendar year shall be expended; provided, however, that all fees shall be committed for expenditure within four years from the date of collection. A municipality that fails to commit to expend the balance required in the development fee trust fund by the time set forth in this section shall be required by the council to transfer the remaining unspent balance at the end of the four-year period to the "New Jersey Affordable Housing Trust Fund," established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320), as amended by P.L.2008, c.46 (C.52:27D-329.1 et al.), to be used in the housing region of the transferring municipality for the authorized purposes of that fund.

e. Notwithstanding any provision of this section, or regulations of the [council] department, a municipality shall not collect a development fee from a developer whenever that developer is providing for the construction of affordable units, either on-site or elsewhere within the municipality.

This section shall not apply to the collection of a Statewide development fee imposed upon non-residential development pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 [et seq.] through C.40:55D-8.7) by the State Treasurer, when such collection is not authorized to be retained by a municipality.

(cf: P.L.2008, c.46, s.8)

31. Section 10 of P.L.2008, c.46 (C.52:27D-329.4) is amended to read as follows:

10. a. The [council] department shall maintain on its Internet website, and also publish on [a regular] an annual basis, an up-to-date
municipal status report [concerning the petitions for substantive certification of each municipality that has submitted to the council's jurisdiction, and shall collect and publish] based on its collection and publication of information concerning the number affordable of housing units actually constructed, construction starts, certificates of occupancy granted, [rental units maintained, and the number of housing units transferred or sold within the previous 12-month period] the start and expiration dates of deed restrictions, and residential and non-residential development fees collected and expended, including purposes and amounts of such expenditures, along with the current balance in the municipality’s affordable housing trust funds. With respect to units actually constructed, the information shall specify the characteristics of the housing, including housing type, tenure, affordability level, number of bedrooms, date and expiration of affordability controls, and whether occupancy is reserved for families, senior citizens, or other special populations. [No later than 60 months after the effective date of P.L.2008, c.46 (C.52:27D-329.1 et al.), the council shall require each municipality, as a condition of substantive certification, to provide, in a standardized electronic media format as determined by the council, the details of the fair share plan as adopted by the municipality and approved by the council. The council shall publish and maintain such approved plans on its website.]

b. (1) No later than [90] [180] days following the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), each municipality shall provide the department with the information necessary to comply with this section.

(2) Beginning with the year after the enactment of P.L. , c. (C. ) (pending before the Legislature as this bill), by [January] February 15, each municipality shall provide the department with the information necessary to comply with this section.

c. The department may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as may be necessary to effectuate the provisions of this section, including rules and regulations to ensure that municipalities and developers report any information as may be necessary for the department to fulfill its obligations pursuant to this section.
(cf: P.L.2008, c.46, s.10)

32. Section 18 of P.L.2008, c.46 (C.52:27D-329.9) is amended to read as follows:

18. a. Notwithstanding any rules [of the council] to the contrary, for developments consisting of newly-constructed residential units located, or to be located, within the jurisdiction of any regional planning entity required to adopt a master plan or comprehensive management plan pursuant to statutory law, including the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6), the
Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8), the Fort Monmouth Economic Revitalization Planning Authority pursuant to section 5 of P.L.2006, c.16 (C.52:27I-5), or its successor, and the Highlands Water Protection and Planning Council pursuant to section 11 of P.L.2004, c.120 (C.13:20-11), but excluding joint planning boards formed pursuant to section 64 of P.L.1975, c.291 (C.40:55D-77), there shall be required to be reserved for occupancy by low or moderate income households at least 20 percent of the residential units constructed, to the extent this is economically feasible with affordability controls as required pursuant to the rules and regulations of the agency.

b. Subject to the provisions of subsection d. of this section, a developer of a project consisting of newly-constructed residential units being financed in whole or in part with State funds, including, but not limited to, transit villages designated by the Department of Transportation and units constructed on State-owned property, shall be required to reserve at least 20 percent of the residential units constructed for occupancy by low- or moderate-income households, as those terms are defined in section 4 of P.L.1985, c.222 (C.52:27D-304), with affordability controls as required under the rules of the council, unless the municipality in which the property is located has received substantive certification from the council and such a reservation is not required under the approved affordable housing plan, or the municipality has been given a judgment of repose or a judgment of compliance by the court, and such a reservation is not required under the approved affordable housing plan agency.

c. (1) The Legislature recognizes that regional planning entities are appropriately positioned to take a broader role in the planning and provision of affordable housing based on regional planning considerations. In recognition of the value of sound regional planning, including the desire to foster economic growth, create a variety and choice of housing near public transportation, protect critical environmental resources, including farmland and open space preservation, and maximize the use of existing infrastructure, there is created a new program to foster regional planning entities.

(2) The regional planning entities identified in subsection a. of this section shall identify and coordinate regional affordable housing opportunities in cooperation with municipalities in areas with convenient access to infrastructure, employment opportunities, and public transportation. Coordination of affordable housing opportunities may include methods to regionally provide housing in line with regional concerns, such as transit needs or opportunities, environmental concerns, or such other factors as the council may permit; provided, however, that such provision by such a regional
entity may not result in more than a 50 percent change in the fair
share obligation of any municipality; provided that this limitation
shall not apply to affordable housing units directly attributable to
development by the New Jersey Sports and Exposition Authority
within the New Jersey Meadowlands District.

(3) In addition to the entities identified in subsection a. of this
section, the Casino Reinvestment Development Authority, in
conjunction with the Atlantic County Planning Board, shall identify
and coordinate regional affordable housing opportunities directly
attributable to Atlantic City casino development, which may be
provided anywhere within Atlantic County, subject to the
restrictions of paragraph (4) of this subsection.

(4) The coordination of affordable housing opportunities by
regional entities as identified in this section shall not include
activities which would provide housing units to be located in those
municipalities that are eligible to receive aid under the "Special
Municipal Aid Act," P.L.1987, c.75 (C.52:27D-118.24 et seq.), or
are coextensive with a school district which qualified for
designation as a "special needs district" pursuant to the "Quality
any time in the last 10 years have been qualified to receive
assistance under P.L.1978, c.14 (C.52:27D-178 et seq.) and that fall
within the jurisdiction of any of the regional entities specified in
subsection a. of this section.] (Deleted by amendment,
P.L. , c. ) (pending before the Legislature as this bill)
d. Notwithstanding the provisions of subsection b. of this
section, or any other law or regulation to the contrary, for purposes
of mixed use projects or qualified residential projects in which a
business receives a tax credit pursuant to P.L.2007, c.346 (C.34:1B-
207 et seq.) or a tax credit pursuant to section 35 of P.L.2009, c.90
(C.34:1B-209.3), or both, an "eligible municipality," as defined in
section 2 of P.L.2007, c.346 (C.34:1B-208), shall have the option of
deciding the percentage of newly-constructed residential units
within the project, up to 20 percent of the total, required to be
reserved for occupancy by [low or moderate income] low- or
moderate-income households. For a mixed use project or a
qualified residential project that has received preliminary or final
site plan approval prior to the effective date of P.L.2011, c.89, the
percentage shall be deemed to be the percentage, if any, of units
required to be reserved for [low or moderate income] low- or
moderate-income households in accordance with the terms and
conditions of such approval.

(cf: P.L.2011, c.89, s.5)

33. Section 3 of P.L.1995, c.343 (C.55:14K-56) is amended to
read as follows:

3. As used in this act:
"Affordable Home Ownership Opportunities Bonds" means any bonds of the New Jersey Housing and Mortgage Finance Agency that provide funds to facilitate the provisions of this act.

"Agency" means the New Jersey Housing and Mortgage Finance Agency.

"Annual income" means total income, from all sources, during the last full calendar year preceding the filing of an application for a loan pursuant to this act.

"Bonds" means bonds, notes or any other form of evidence of indebtedness of the agency, bearing either a fixed rate or a variable rate of interest, issued by the agency.

"Eligible project" means a project for the creation of low or moderate income housing which meets the standards of eligibility for loans under the program created by this act.

"Eligible purchaser" means a purchaser of a dwelling unit in an eligible project to whom a loan may be made under the program pursuant to section 5 of this act.

"Fund" means the Affordable Home Ownership Opportunities Fund established by section 5 of this act.

"Housing region" means a housing region as defined in subsection b. of section 4 of the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-304) and determined by the Council on Affordable Housing pursuant to section 7 of that act, P.L.1985, c.222 (C.52:27D-307) pursuant to subsection b. of section 6 of P.L.1985, c.222 (pending before the Legislature as this bill).

"Local enforcement authority" means any officer or agency of local government responsible for the implementation or enforcement of land-use and building regulations established by or pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

"Low income" means a gross annual household income equal to 50% or less of the median gross annual household income for households of the same size within the relevant housing region.

"Moderate income" means a gross annual household income equal to not more than 80%, but more than 50% of the median gross annual household income for households of the same size within the relevant housing region.

"Program" means the Affordable Home Ownership Opportunities Program created by this act.

"Qualified nonprofit organization" means any corporation or association of persons organized under Title 15A of the New Jersey Statutes, having for its principal purpose, or as a purpose ancillary to its principal purpose, the improvement of realistic opportunities for low income and moderate income housing, as defined pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.), being within the description of section 501(c)(3) of the United States Internal Revenue Code (26 U.S.C. 501(c)(3)), having been
determined by the agency to be a bona fide organization not under
the effective control of any for-profit organization or governmental
entity, and appearing capable, by virtue of past activities,
qualifications of staff or board, or other features, of furthering the
purposes of this act.

"Substantial rehabilitation" means repair, reconstruction or
renovation which (1) costs in excess of 60% of the fair market value
of a rehabilitated dwelling after such repair, reconstruction or
renovation, or (2) renders a previously vacant and uninhabitable
dwelling safe, sanitary and decent for residential purposes, or (3)
converts to safe, sanitary and decent residential use a structure
previously in non-residential use.

(cf: P.L.1995, c.343, s.3)

34. Section 7 of P.L.1995, c.343 (C.55:14K-60) is amended to
read as follows:

7. A project of new construction or substantial rehabilitation by
a nonprofit organization shall be eligible for a loan under this act if
(1) the homes to be constructed or substantially rehabilitated under
the project are located within an identifiable neighborhood in which
median family income does not exceed the current standard of
"moderate income" pursuant to the contemporaneous standards of
the Council on Affordable Housing established pursuant to the
"Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.); (2) the
homes to be constructed or substantially rehabilitated under the
project are sufficient in number and located on the same or
contiguous parcels of land or within such proximity to each other as
to render the cost per unit of housing practicable for acquisition by
lower-income purchasers; and (3) each home constructed or
substantially rehabilitated within the project will conform to all
requirements of the State Uniform Construction Code, except as to
the waiver of any fee or other requirement pursuant to subsection b.
of section 9 of this act.

(cf: P.L.1995, c.343, s.7)

35. Section 3 of P.L.1998, c.128 (C.55:14K-74) is amended to
read as follows:

3. As used in this act:

"Agency" means the New Jersey Housing and Mortgage Finance
Agency.

"Annual income" means total income, from all sources, during
the last full calendar year preceding the filing of an application for a
loan pursuant to this act.

"Bonds" means bonds, notes or any other form of evidence of
indebtedness of the agency, bearing either a fixed rate or a variable
rate of interest, issued by the agency.

"Eligible project" means a project undertaken by a qualified
housing sponsor to create housing for shared occupancy by seniors
or persons with disability of low or moderate income, whether for
home ownership or rental, which meets the standards of eligibility
for loans under the program created by section 4 of P.L.1998, c.128

"Eligible purchaser" means a purchaser of a dwelling unit in an
eligible project who fulfills the definition of a senior or person with
disability pursuant to this section, is of low or moderate income and
to whom a loan may be made under the program pursuant to section

"Fund" means the Senior and Disabled Cooperative Housing
Incentive Fund established by section 6 of P.L.1998, c.128

"Housing region" means a housing region as defined in
subsection b. of section 4 of P.L.1985, c.222 (C.52:27D-304) and
determined [by the Council on Affordable Housing pursuant to
section 7 of P.L.1985, c.222 (C.52:27D-307)] pursuant to
subsection b. of section 6 of P.L. , c. (C. ) (pending before
the Legislature as this bill).

"Low income" means a gross annual household income equal to
50% or less of the median gross annual household income for
households of the same size within the relevant housing region.

"Moderate income" means a gross annual household income
equal to not more than 80%, but more than 50% of the median gross
annual household income for households of the same size within the
relevant housing region.

"Person with disability" means any person who is 18 years of age
or older and who fulfills the definition of having a "disability"
pursuant to section 3 of the "Americans with Disabilities Act of

"Program" means the New Jersey Senior and Disabled
Cooperative Housing Finance Incentive Program created by

"Qualified housing sponsor" means any corporation or
association of persons organized under the New Jersey Statutes, or
any other corporation having for one of its purposes the
improvement of realistic opportunities for low income and moderate
income housing, as defined pursuant to the "Fair Housing Act,"
P.L.1985, c.222 (C.52:27D-301 et al.), and appearing capable, by
virtue of past activities, qualifications of staff or board, or other
features, of furthering the purposes of P.L.1998, c.128 (C.55:14K-
72 et seq.).

"Retrofitting" means renovating or remodeling an existing
residential or non-residential structure to allow for cooperative
living.

"Senior" means an individual who is 55 years of age or older.

"Substantial rehabilitation" means repair, reconstruction or
renovation which (1) costs in excess of 60% of the fair market value
of a rehabilitated dwelling after such repair, reconstruction or
renovation, or (2) renders a previously vacant and uninhabitable
dwelling safe, sanitary and decent for residential purposes or (3)
converts to safe, sanitary and decent residential use a structure
previously in non-residential use.

(cf: P.L.1998, c.128, s.3)

36. (New section) a. (1) Notwithstanding the provisions of the
to the contrary, the Commissioner of Community Affairs shall, in
consultation with the Administrative Director of the Courts and the
Executive Director of the New Jersey Housing and Mortgage Finance
Agency, adopt, immediately upon filing with the Office of
Administrative Law, no later than nine months after the effective date
of P.L. , c. (C. ) (pending before the Legislature as this bill),
such transitional rules and regulations as necessary for the
implementation of P.L. , c. (C. ) (pending before the
Legislature as this bill), including for the identification of any
vestigial duties of the Council on Affordable Housing and the transfer of those duties within the Department of Community Affairs
to the extent that those duties are not otherwise assumed, pursuant to
P.L. , c. (C. ) (pending before the Legislature as this bill), by
municipalities or the Affordable Housing Dispute Resolution Program
and (b) the establishment of policies regarding the cost of the
assessments and fees of planned real estate developments, as defined in section 3 of P.L.1977, c.419 (C.45:22A-23), on low- and moderate-
income housing units.

(2) The department, in consultation with the agency, shall
thereafter amend, adopt, or readopt the regulations in accordance with
the requirements of the "Administrative Procedure Act," P.L.1968,
c.410 (C.52:14B-1 et seq.).

b. The Executive Director of the New Jersey Housing and
Mortgage Finance Agency, in consultation with the department,
shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968,
c.410 (C.52:14B-1 et seq.), no later than nine months after the
effective date of P.L. , c. (C. ) (pending before the Legislature as this bill), rules and regulations to update the Uniform Housing
Affordability Controls as required pursuant to the "Fair Housing Act,"
P.L.1985, c.222 (C.52:27D-301 et al.). As part of updating the
Uniform Housing Affordability Controls, the agency shall set rules
establishing that, for the purpose of newly created low- and
moderate-income rental units, a minimum deed restriction shall be required. For the purpose of for-
sale units, a minimum deed restriction shall be required. For the purpose of housing units for which affordability
controls are extended for a new term of affordability (1) a 20-year
minimum deed restriction shall be required if the unit was initially
created before October 1, 2001; and (2) a 30-year minimum deed
restriction shall be required if the unit was initially created on or following October 1, 2001, a 30-year minimum deed restriction shall be required, provided that the minimum extension term may be limited to no less than 20 years as long as the original and extended term, in combination, total at least 60 years. Any 100 percent affordable rental property shall have a right to extinguish a deed restriction regardless of original length, beginning 30 years following the start of the deed restriction, provided a refinancing or rehabilitation, or both, for the purpose of preservation is commenced and that a new deed restriction of at least 30 years is provided. A municipality shall be eligible to receive credits for all preserved units pursuant to this subsection, as long as the original and extended term total at least 60 years, and this credit may be obtained at the time of preservation. All 100 percent affordable projects shall be eligible for any affordable housing preservation program administered by the State, beginning 30 years following the start of the deed restriction, regardless of original length of the deed restriction. Any State administered preservation program may allow a refinancing funding process to commence prior to the 30th year of the deed restriction when such refinancing or rehabilitation funding is needed to preserve affordable housing.

37. The following sections are repealed:

Section 5 of P.L.1985 c.222 (C.52:27D-305);
Section 6 of P.L.1985, c.222 (C.52:27D-306);
Section 7 of P.L.1985, c.222 (C.52:27D-307);
Section 1 of P.L.1991, c.479 (C.52:27D-307.1);
Section 2 of P.L.1991, c.479 (C.52:27D-307.2);
Section 3 of P.L.1991, c.479 (C.52:27D-307.3);
Section 4 of P.L.1991, c.479 (C.52:27D-307.4);
Section 5 of P.L.1991, c.479 (C.52:27D-307.5);
Section 6 of P.L.2001, c.435 (C.52:27D-307.6);
Section 8 of P.L.1985, c.222 (C.52:27D-308);
Section 9 of P.L.1985, c.222 (C.52:27D-309);
Section 40 of P.L.2009, c.90 (C.52:27D-311.3);
Section 2 of P.L.1989, c.142 (C.52:27D-313.1);
Section 14 of P.L.1985, c.222 (C.52:27D-314);
Section 15 of P.L.1985, c.222 (C.52:27D-315);
Section 16 of P.L.1985, c.222 (C.52:27D-316);
Section 17 of P.L.1985, c.222 (C.52:27D-317);
Section 18 of P.L.1985, c.222 (C.52:27D-318);
Section 19 of P.L.1985 e.222 (C.52:27D-319);
Section 22 of P.L.1985, c.222 (C.52:27D-322);
Section 26 of P.L.1985, c.222 (C.52:27D-326);
Section 28 of P.L.1985, c.222 (C.52:27D-328); and

38. a. There is appropriated to the Affordable Housing Dispute Resolution Program, established pursuant to subsection a. of section
5 of P.L. , c. (C. ) (pending before the Legislature as this bill), from the General Fund $12,000,000 for the purposes of carrying out its responsibilities for the fourth round of affordable housing obligations, as established pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. There is appropriated to the Department of Community Affairs, from the General Fund, $4,000,000 for the purposes of carrying out responsibilities allocated to it pursuant to P.L. , c. (C. ) (pending before the Legislature as this bill).

39. This act shall take effect immediately, and shall apply to each new round of affordable housing obligations that begins following enactment.